



Analysis of Impacts to the Performance of
McDaniel Plumbing & Heating, Incorporated

On the
Construction of the Sussex Central High School

For the
Indian River School District

Report Date: July 30th, 2007

NARRATIVE OUTLINE

On May 10th, 2002 the Indian River School District, in an internal memorandum, noted their retention of EDiS Company to provide construction management services for the upcoming construction of the Sussex Central High School project. The contract, dated January 7th, 2002, totaling \$1,192,000, incorporated 32 months of performance duration to supervise design and construction phases for the 187,225 SF facility. The memorandum notes that EDiS Company had been working without compensation since January and that the payment structure would start from that date.

Albeit the fact that the EDiS contract envisioned performance of pre construction services, the specific period for construction, as referenced in their contract, was from a commencement on July 15th 2002 to a substantial completion on May 21st, 2004, and a final on September 2nd, 2004, or a gross duration of twenty six and a half months for overall construction.

Subsequent to the issuance of EDiS's contract, on the 17th of July 2002 EDiS transmitted the following notices to proceed:

NDK Gen Contr, Inc.	Concrete	\$898,000
A P Croll & Son	Site Work	\$2,169,500
Murphy Steel	Struct Stl & Misc Metals	\$1,445,000

On August 15th, 2002 the Indian River School District received prime bid for the mechanical, plumbing and automatic temperature control construction scope for the new Central High School in Millsboro, Delaware, Sussex County.

The bids were compiled by the District's Construction Manager, EDiS Company, and their Architect Becker Morgan Group, Inc. and submitted on August 22nd, 2002. The following is the abstract of the Mechanical & Plumbing Bid:

Bidders	Base	Alt 1	Alt 2	Alt 3
McDaniel P&H	4,289,000	33,000	4,500	9,000
Delcard Associates	4,516,000	72,000	10,000	23,000
J D Griffith	4,826,000	79,500	6,500	17,000
Joseph Zimmer	4,849,000	93,000	13,000	39,000

McDaniel Plumbing & Heating of New Castle, Delaware bid, and was apparent low bidder for, the contract SC-B-14 "Mechanical, Plumbing, Automatic Temperature Control", and on the 28th of August 2002, was notified by the School District that their bid of \$4,335,500 (\$4,289,000 Base, + \$33,000 for Alt 1 Aux Gym + \$4,500 for Alt # 2 Storage Area + \$9,000 for Alt #3 Classrooms) was accepted and that McDaniel was authorized to proceed with construction.

Other successful select work scope bidders, receiving notice to proceed on the 28^t of August, were:

CTA	Roofing
Bear Industries	Fire Protection
John W Tieder	Electrical
Enterprise Masonry	Masonry

As referenced above, on the 28th of August 2002 Tieder was afforded a notice to proceed on the noted electrical scope, whereas NDK was directed to proceed on a second contract, for Drywall construction, in the amount of \$1,355,000 and Enterprise received their notice to proceed on the masonry and cast stone scope in the contract amount of \$3,456,000.

As part of the contract documents the owner supplied bidders with the planned performance schedule, with performance dates, presented in a critical path method format, representing a July 17th, 2002 commencement and an anticipated completion date of May 31st, 2004.

It is important to note that this report relies upon the schedule incorporated in the contract documents, and though we reflect upon dates and sequences afforded in numerous subsequent schedule updates we believe that McDaniel has the right to expect and rely upon the performance, sequencing and durations incorporated in the aforementioned schedule.

To the extent that the schedule is delayed, an extension would be expected, and to the extent that acceleration or re sequencing is directed to ameliorate the performance of other contractors, McDaniel would attempt to make all effort to mitigate said delay.

The following plate is a recapitulation of that initial schedule. In it's simplicity you will note that mechanical and plumbing construction commence upon completion of the footers and foundation walls, concurrent with the slab on grade start.

Approximately one month and two weeks later steel erection commences, once again completing in approximately one month, two weeks.

A month prior to the completion of steel erection masonry erection above grade, commences three months subsequent to the start of mechanical and plumbing construction.

Upon completion of the steel erection roofing commences and runs for less than two months, completing one month subsequent to the completion of roofing.

From experience the schedule required McDaniel to commence under slab utility work one and a half months into its two and a half month duration.

Above slab M/P risers started concurrent with the slab pours and were the initial above slab rough activity. This above slab mechanical rough sequence was tied off the start of slabs on grade (Note slab on deck was missing from the schedule).

Between January 15th, 2003 and April 9th, 2003, fully concurrent with the slab on grade construction, McDaniel experienced a period of time where above slab masonry would not progress on the floors, affording McDaniel a clear opportunity to begin the installation of remaining risers, plumbing and piping overhead laterals, and homerun/branch duct runs without obstruction from walls.

In its award winning bid McDaniel planned on this aforementioned three month period of time to stay ahead of the mason and install overhead lateral rough without obstructions. And assuming the mason was following the same sequence established in the September 2002 update McDaniel would have had a minimum of near three months of unfettered performance at the onset of every building.

This type of scheduling, albeit simple by nature, intuitively afforded McDaniel the sequences necessary to accomplish this project incorporating planned efficiencies.

As noted earlier, roofing followed the steel erection sequence and was represented by an overall project duration of less than two months. With the masonry walls complete by the 4th of May 2003, and the roof in place by the 1st of July 2003 and, finally, curtain walls and windows starting on the 4th of June 2003, McDaniel had the right to expect a weather-tight building starting in June of 2003, a full year before the planned project completion.

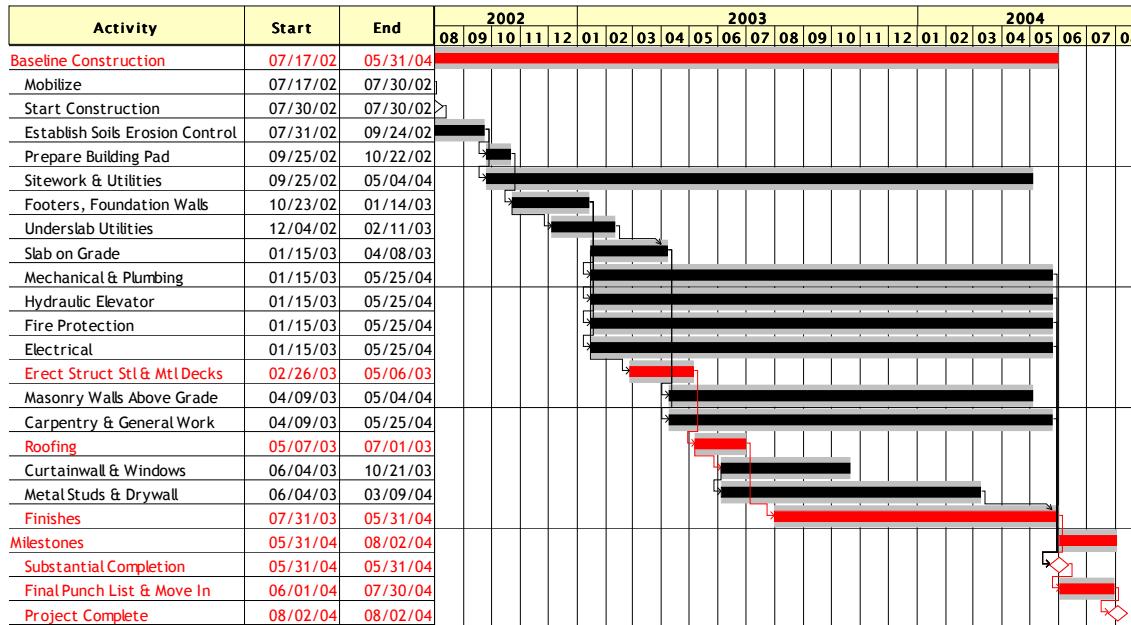
The start of metal studs and drywall, five months after the start of slabs, again, like above slab masonry, afforded McDaniel five months of performance, subsequent to the start of slabs on grade to perform without the impact of concurrent, or prior stud erection.

We note these sequences that comprise the schedule, as they pertain to plumbing and mechanical construction, in that each ultimately was impacted either as a result of delays, or constructive compression/acceleration attempted to ameliorate mounting delays.

As noted in this narrative though delays amounted to substantive proportion in comparison to the project original performance duration, yet at no time was an extension afforded, by change, to the contract. Monthly schedule revisions/updates will be issued that compress sequences resulting in the aforementioned acceleration/compression, in an attempt to mitigate the impact of delays, but largely

to no avail. Simultaneously EDiS continues to reassure the district of a timely or near timely completion despite what we will demonstrate were literally months of critical impact to the baseline schedule.

In summation, given the size of the building the schedule was aggressive, but if the sequencing and predecessor performance maintain the construction milestones, the date was readily achievable.



The first construction progress meeting references that the project sequence for construction will be A, C, D, E, F, B, whereas in subsequent meeting that sequence will change (i.e. 9/17/02 project schedule sequence of A, C, F, D, E, B).

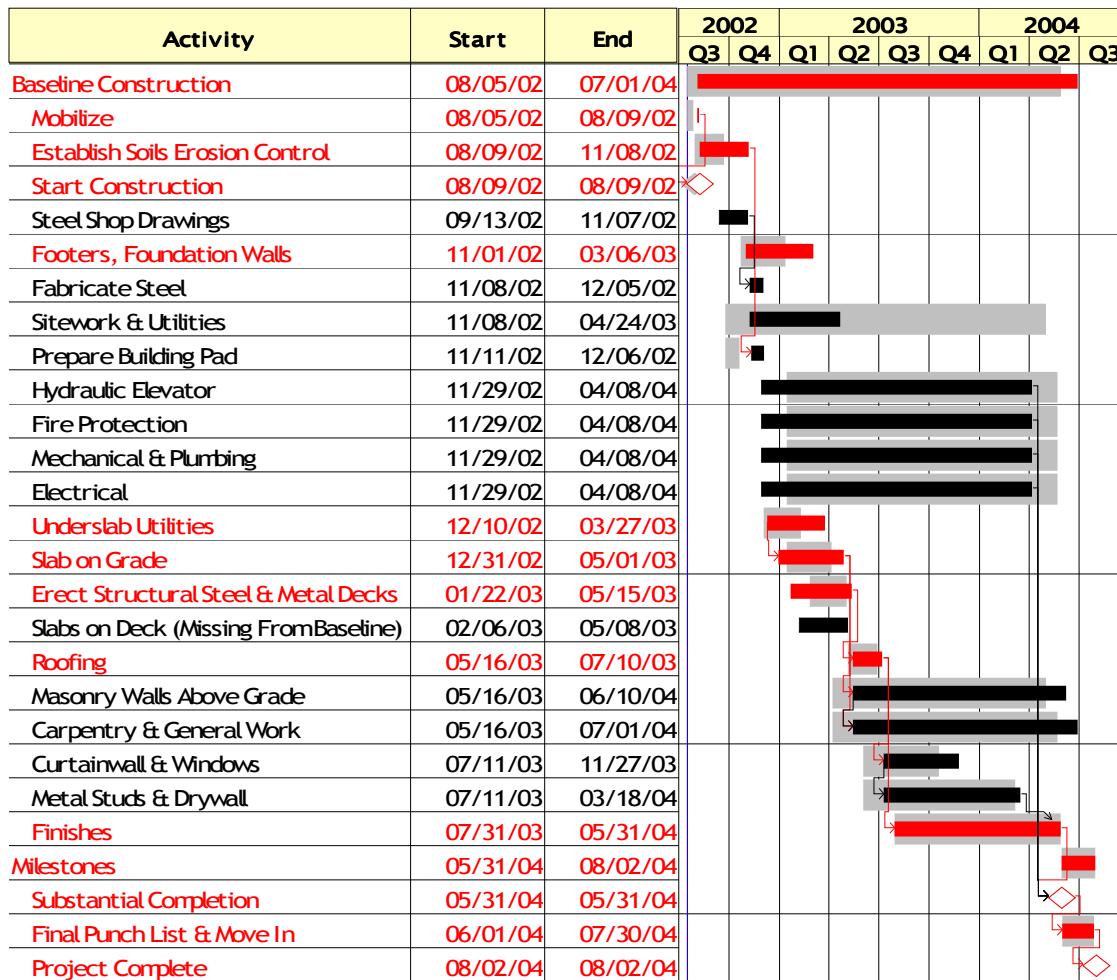
On September 17th, 2002 the second project meeting is held, approximately two months into the twenty two months actual performance duration (7/15/02 - 5/21/04) wherein it was noted that the initial site activity "Stripping of Topsoil" will start the following day, by Croll. Other Croll activities in progress were:

- Cleaning of Route 318 ditch (Will complete as of Sept 17th, 2002)
- Stripping of topsoil (Scheduled to commence Sept 18th with Proof Rolling as of the 27th)
- Excavation of Ponds & Building Pad Prep (Will commence Sept 27th)
- Force Main Installation (To Commence Oct 22nd)
- Pre-Construction Meeting for Concrete Footers & Piers (Scheduled for November 6th)

Among the notes is one regarding the concrete commencement pre construction meeting on November 6th, whereas the schedule attached to the meeting minutes represents commencement of footers on November 1st, five days prior.

The meeting continues by noting that excavation of ponds and preparation of the building pads will commence as of the 26th of September, and were expected to complete by the 30th of October, but water has had adverse impact on progress.

The following schedule was attached to the meeting minutes and we have referenced the revised performance dates to the baseline contractually mandated performance referenced in gray. Areas where there are no gray baseline bars (i.e. Slabs on Deck), are areas of work scope not incorporated in the contractual baseline schedule document.



Other possible issues of schedule impact, noted, are the approval of change orders including, but not limited to

- Additional Fill & Grading Around the Building (Will not be processed until November 18th, 2002)
- Additional Sewer Manhole (Waiting on signature)
- Lower Sewer Mains on Site (Waiting on signature)

- Add Entrance Pipes (Change transmitted to Croll)
- Dig Test Pits (Change transmitted to Croll)
- Delete Turn Down Slabs at Exterior of Building (Under Review)

The defined baseline contract schedule would have required planned completion of the erosion controls as of September 24th, 2002, this September 17th, 2002 schedule extends the same sequence to November 8th, 2002:

Activity	Start	End	2002						
			08/04	08/11	08/18	08/25	09/01	09/08	09/15
Baseline Construction	08/05/02	07/01/04							
Mobilize	08/05/02	08/09/02							
Start Construction	08/09/02	08/09/02							
Establish Soils Erosion Control	08/09/02	11/08/02							
Install Silt Fence	08/09/02	08/09/02							
Stabilized Construction Entrance	08/26/02	09/05/02							
Clean Out Ditch	09/06/02	09/18/02							
Strip Topsoil-Ponds-Building	09/18/02	09/26/02							
Excavate Ponds & Prep Building	09/27/02	10/31/02							
Install Pond Structures	11/01/02	11/07/02							
Stabilize Ponds	11/08/02	11/08/02							
Steel Shop Drawings	09/13/02	11/07/02							

It is evident from these plates that, as of September 17th initial, critical activities of construction will be significantly waylaid from their baseline performance dates:

Activity	Start	End	2002					2003	
			08	09	10	11	12	01	02
Start Construction	08/09/02	08/09/02							
Establish Soils Erosion Control	08/09/02	11/08/02							
Install Silt Fence	08/09/02	08/09/02							
Stabilized Construction Entrance	08/26/02	09/05/02							
Clean Out Ditch	09/06/02	09/18/02							
Strip Topsoil-Ponds-Building	09/18/02	09/26/02							
Excavate Ponds & Prep Building	09/27/02	10/31/02							
Install Pond Structures	11/01/02	11/07/02							
Stabilize Ponds	11/08/02	11/08/02							
Steel Shop Drawings	09/13/02	11/07/02							
Footers, Foundation Walls	11/01/02	03/06/03							
Concrete Administration	11/01/02	12/09/02							
Concrete C Classrooms	11/29/02	12/19/02							
Concrete F Gym/Cafe/Mech Room	12/02/02	02/13/03							
Concrete D Classrooms	12/13/02	01/02/03							
Concrete E Classrooms	12/27/02	01/16/03							
Concrete - B Auditorium- AG	01/31/03	03/06/03							

One of the initial areas that EDiS explores, in what appears to be an attempt to ameliorate early schedule logic delays, from erosion control and foundation performance, is MEP scheduling the performance of underground near fully concurrent

with concrete foundations, slabs on grade and structural steel rather than in a sequential logic, with overlaps, as originally intended.

Specifically, the baseline logic did have concurrent performance between foundations and under slab utilities, but subsequent steel and slab performance either had minimal or no concurrency.

This new schedule has slab on grade concurrent with three of the under slab three and a half months of performance, whereas the baseline had an overlap of one month, there was not structural steel overlap in the baseline whatsoever and now they are two months concurrent. Additionally deck pours have been added to the schedule, which further impede mechanical and plumbing riser placement, this time concurrent with one and a half months of the under slab overall performance duration.

The following plate demonstrates the initial schedule (Gray) and the revised schedule (Colors) to demonstrate the greater concurrency being implemented arising from delays to foundation and attempts to start slabs and steel earlier.



The minutes of the third project progress meeting, dated October 1st, 2002, note that topsoil stripping was complete on the 24th of September 2002 and proof rolling and filling of the building pad started September 25th, the following day likely using the material generated by the retention pond excavation starting the same date. Croll notes the building pad and pond work will take four to six weeks, or a possible completion in the first week of November.

During the same meeting it was noted that NDK planned commencement of footers excavation on the second week of November.

Given that the baseline schedule referenced the completion of the pad on October 22nd, and the commencement of foundations on the 23rd of October it would appear that these critical milestones, and consequently the contract are two weeks behind schedule.

The noted completion of the building pad, and commencement of foundation layout, is improved by a week (October 30th, 2002) in the fourth progress meeting dated October 15th, 2002.

Six weeks after their notice to proceed, on October 16th, 2002, McDaniel receives a contract for signature.

On October 24th, 2002 McDaniel received on set of “marked up steel drawings” from EDiS requesting that penetrations be reviewed and confirmed.

On the 29th of October 2002 EDiS writes to McDaniel noting that the will not forward pump and expansion tank submittals from manufacturers not referenced in the design documents.

The October 29th, 2002 progress and November 7th “Executive Session Meeting Minutes” notes impact to site work due to weather. As a consequence, as of the November 12th meeting, the building pad is not complete, the foundations have not commenced and layout is not likely until the 18th of November, a net delay of twenty seven calendar days. Despite this significant critical delay so early in the project, the attached project schedule of November 10th, 2002 affords no extension to the performance duration thereby compressing performance time for subsequent contractors.

The project meeting minutes, number seven, dated November 26th, 2003, more than three months beyond the July 17th notice to proceed, represents a project with

- partial soil erosion control,
- partial building pads,
- no site water controls (Storm System, Ditch Clean Out),
- no steel shop drawings for Area A.

The following, partially impacted activities result in an impacted (Structural Steel Shop Drawings Base 9/13/02 - 11/17/02, Versus Impacted 11/26/02 - 1/20/03) project substantial completion date of July 2nd, 2004, a net delay of thirty two (32) calendar days, in three months.

Activity	Start	End	2002		2003		2004		
			Q3	Q4	Q1	Q2	Q3	Q4	Q1
Baseline Construction	08/05/02	08/04/04							
Establish Soils Erosion Control	08/09/02	12/27/02							
Stabilized Construction Entrance	11/26/02	12/06/02							
Clean Out Ditch	12/09/02	12/19/02							
Strip Topsoil-Ponds-Building	12/19/02	12/27/02							
Steel Shop Drawings	11/26/02	01/20/03							
Fabricate Steel	01/21/03	02/17/03							
Erect Structural Steel & Metal Decks	04/04/03	06/18/03							
Roofing	06/19/03	08/13/03							
Finishes	09/03/03	07/02/04							
Milestones	07/02/04	09/03/04							
Substantial Completion	07/02/04	07/02/04							
Final Punch List & Move In	07/05/04	09/02/04							
Project Complete	09/03/04	09/03/04							

At this juncture the building pads (prepared areas for excavation) have yet to be complete, but a portion have been afforded to allow foundation excavation/construction, per NDK, during the November 26th, 2002 meeting, to start on November 21st, 2002, twenty nine days behind schedule, but three days less impact than the delay arising from the steel shop drawings.

Activity	Start	End	2002					2003	
			08	09	10	11	12	01	02
Baseline Construction	08/05/02	08/04/04							
Mobilize	08/05/02	08/09/02							
Start Construction	08/09/02	08/09/02	◆						
Establish Soils Erosion Control	08/09/02	12/27/02							
Install Silt Fence	08/09/02	08/09/02							
Excavate Ponds & Prep Building	09/26/02	12/10/02							
Stabilized Construction Entrance	11/26/02	12/06/02							
Clean Out Ditch	12/09/02	12/19/02							
Install Pond Structures	12/11/02	12/17/02							
Stabilize Ponds	12/18/02	12/18/02							
Strip Topsoil-Ponds-Building	12/19/02	12/27/02							
Footers, Foundation Walls	11/15/02	03/24/03							
Steel Shop Drawings	11/26/02	01/20/03							

As noted in an earlier comparison, despite this rather sizable delay, now in the excavation, foundation and steel shop sequences, the EDiS schedule update, for December 2nd, 2002, does not represent any impact.

This failure to compute and outline impacts and corresponding critical extensions, arises partly from the fact that the building pad has not completed as of November 26th, yet the EDiS scheduling document reflects the activity complete on October 31st, 2002. Clearly, had the schedule been properly updated, and statused with the proper progress the impact would have been generated.

As for the concrete foundation excavation in Area A, originally scheduled to commence on October 23rd, 2002, the December 10th project meeting minutes (part 8.3.2 of the report) represent that the work commenced on the 21st of November and is scheduled to complete on the 2nd of December in the A Administration Area, whereas in report section 8.2.5 (Schedule Update) it is reported that the same effort began on December 2nd and will complete on the 18th of December. This flawed schedule reporting gives rise to the concern of whether impacts can be effectively and accurately managed by EDiS.

The January 2003 status report from EDiS to IRSD noted that the project was in fact five weeks behind schedule which they attribute to weather delays resulting in a revised contract substantial completion date of July 22nd 2004, considerably more than five weeks beyond the May 31st contractual date. Despite this representation the Buildings and Grounds Progress Meeting, dated January 6th, 2003 notes:

Construction is running approximately two weeks behind. They have already started laying the foundation and the blocks. Steel construction should begin as early as next week. Steel contractors are optimistic that they can make up some of the time.

This reporting is inaccurate in that the January 7th, 2003 EDiS project meeting number 10 unequivocally reports that steel will not start until the end February 2003.

On January 3rd, 2003 McDaniel mobilized the site, received pipe sleeving, and began placement to afford penetrations through concrete footers and block walls.

Despite a baseline completion of steel shop drawings for November 7th, 2002, the impacted overall contract completion date, generated by the actual submission of initial steel shop drawings on December 9th 2002, has now been pushed to July 15th, 2002 and no part of the steel engineering process was impacted by weather, contrary to EDiS continued reliance on this purported impact.

The submission of steel drawings for Areas C and E, were complete as of the January 10th, 2003 project meeting. Given the outstanding steel shop drawing submissions (Areas F and B) these critical drawings need to be approved in a manner as not to further waylay the contract critical path through the critical steel fabrication and erection sequence.

Activity	Start	End	2002		2003			2004		
			Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2
Baseline Construction	08/05/02	08/17/04								
Establish Soils Erosion Control	08/09/02	12/27/02								
Stabilized Construction Entrance	11/26/02	12/06/02								
Clean Out Ditch	12/09/02	12/19/02								
Strip Topsoil-Ponds-Building	12/19/02	12/27/02								
Steel Shop Drawings	12/09/02	01/31/03								
Fabricate Steel	02/03/03	02/28/03								
Erect Structural Steel & Metal Decks	04/17/03	07/01/03								
Area A Administration	04/17/03	05/01/03								
Area C Classrooms	04/22/03	05/06/03								
Area D Classrooms	05/06/03	05/20/03								
Area E Classrooms	05/20/03	06/03/03								
Area F Gym/Cafe/Mech Rm	06/03/03	06/17/03								
Area B Auditorium - AG	06/18/03	07/01/03								
Roofing	07/02/03	08/26/03								
Finishes	09/16/03	07/15/04								
Milestones	07/15/04	09/16/04								
Substantial Completion	07/15/04	07/15/04								
Final Punch List & Move In	07/16/04	09/15/04								
Project Complete	09/16/04	09/16/04								

The January 7th, 2003 project meeting number ten notes that

- Croll continues excavation of ponds as weather allows
- Croll started installing access roads, but will focus on this in January 2003 (*Not that is now nearing six months on site and the access roads are just commencing*).
- NDK excavation for footers and piers in Area A is ongoing
- EDiS is requiring NDK to correct piers out of tolerance
- Steel erection should start at the end of February 2003
- Enterprise started the below grade foundations in A o the 19th of December

Given that Footers, Foundation Walls, per the baseline schedule, were to have started on the 23rd of October and completed on the 14th of January, for all areas, the continued effort as of January 7th, for the A area alone, demonstrates how far NDK is behind the planned pace.

Incorporating specific sequences, generated post bid (September 18th, 2002 Schedule Update), would suggest the following foundation planned dates:

Activity	Start	End	2002			2003		
			10	11	12	01	02	03
Footers, Foundation Walls	11/15/02	03/19/03						
Concrete A Administration	11/15/02	12/20/02						
Layout Foundations	11/15/02	11/21/02						
Footers & Piers	11/21/02	12/11/02						
Block Walls Below Grade	12/12/02	12/20/02						
Concrete C Classrooms	12/12/02	01/01/03						
Footers & Piers	12/12/02	12/25/02						
Block Walls Below Grade	12/26/02	01/01/03						
Concrete F Gym/Cafe/Mech Room	12/13/02	02/26/03						
Kitchen Rough In Shop Drawings	12/13/02	01/23/03						
Footers & Piers	01/23/03	02/12/03						
Block Walls Below Grade	02/13/03	02/26/03						
Concrete D Classrooms	12/26/02	01/15/03						
Footers & Piers	12/26/02	01/08/03						
Block Walls Below Grade	01/09/03	01/15/03						
Concrete E Classrooms	01/09/03	01/29/03						
Footers & Piers	01/09/03	01/22/03						
Block Walls Below Grade	01/23/03	01/29/03						
Concrete - B Auditorium - AG	02/13/03	03/19/03						
Footers & Piers	02/13/03	03/05/03						
Block Walls Below Grade	03/06/03	03/19/03						

The March 19th, 2003 completion of the foundation sequence would equate to a seventy one day delay to foundation construction, but as noted earlier the steel shop drawings are currently generating delays that result in their driving the critical path.

As noted earlier, other issues of impact/interest, from the January 7th project meeting are:

- AP Croll started installing access roads (Access delay to date)
- Excavation of the ponds continues
- The force main installation is 25% complete
- **Installation of footers in Area A is 75% complete**
- **Foundation block walls began on December 19th, 2002**
- Excavation of footers in Area C is delayed, due to weather, until early January
- Steel shop drawings for "E" & "F" are outstanding from Murphy
- Installation of U/G Utilities in Area C will begin January 13th
- Approval of Area C steel drawings on the 15th of January

As of the 13th of January 2003 McDaniel's reporting notes that they are installing storm and sanitary underground in Area C, and that an office trailer has been delivered to the site.

On January 15th, 2003 EDiS forwards Murphy Steel the approved steel drawings for Area C.

Also on the 15^{ht} of January 203 the plumbing inspector passed the Area C Sanitary Underground mains. The following day, January 16th, McDaniel began installation of storm and sanitary mains in Area D. Despite evident delays by other contractors that have already impacted the performance period and wasted valuable installation time due to lacking progress, McDaniel continues to support the project progress in an businesslike manner.

EDiS notes on the 17th of January 2003 that they have received McDaniel's activity schedule for areas A and C. EDiS notes that they require completion of mechanical systems as of August 1st, 2003 to assist in achieving conditioned space, and consequently completion of the project.

This is of concern in that McDaniel's contract schedule did not require phased completion of any portion of the scope. By contract McDaniel's had until May 25th of 2004 to complete. The contract does not allow for alternate mandated milestones. For EDiS to suggest an operational HVAC system within six months of this notice, and nine months before the schedule completion is unreasonable, and more so given the loss of six weeks as of this date due to the impacts of others.

EDiS' request, for this interim conditioned air milestone, further compresses planned HVAC construction sequences beyond the seventy one day foundation/steel impact reported earlier.

As of January 21st, 2003 McDaniel is removing excess soil from the C Area footprint, installing stone bedding, placing piping backfilling C underground and beginning excavation of trenches in Area A for placement of underground sanitary and storm.

This is an important reference in that the failure of predecessor contractors to afford timely and properly prepared sub grade work areas is resulting in extensive additional work by McDaniel, to prepare the site, which will ultimately translate into labor overruns and early exhaustion of resources. Additionally, per McDaniel, the failure to afford a storm drainage and erosion control, complete, system, has left the project in a near quagmire state. Both conditions result in labor overruns in the under slab rough scope.

Also of importance, on this January 21st, 2003 date, is the baseline, contract schedule milestone for completion of foundations, one week prior on the 14th of January. Yet as of this date NDK continues to work areas A, D and C, and yet to start E, F and B. Without the planned footing progress precious McDaniel in slab performance time is being lost and the work, performed later in the project will require ever greater, and correspondingly less efficient, crewing if the end dates and newly introduced interim milestones are to be considered.

Even the initial schedule revision (Not agreed to by MP&H) of September 18th, 2002 noted the completion of A, C, D and E as of the 16th of January with F well underway.

Clearly the failure of NDK to complete the foundations is critically impacting the contract by a minimum of that time required, beyond January 14th, 2003 to complete the foundations. The January 2003 EDiS schedule update attached to the project meeting does not outline foundation dates for "F" or "B" buildings, but does note completion of concrete in E Classroom on April 29th, 2003, a delay of as much as three months before estimating the additional impact for F and B foundations. Noting EDiS breakout of foundations in recent schedules suggests that F and B could require yet another three months beyond the three month delayed E completion. If this is near accurate the completion of foundation could well continue through July of 2003 (4/29/03 + F&B durations of three additional months), an overall six months delay to the foundation construction.

The concern with initial delays to the project, and the impact of adverse weather, as winter approaches, is clearly delineated in the January 22nd 2003 McDaniel job report's reference to "Freeze Problems in Underground" and unequivocally states that soil is being placed on incomplete installations to avert frost. The January 27th McDaniel report notes that the project is shut down due to the cold and windy weather.

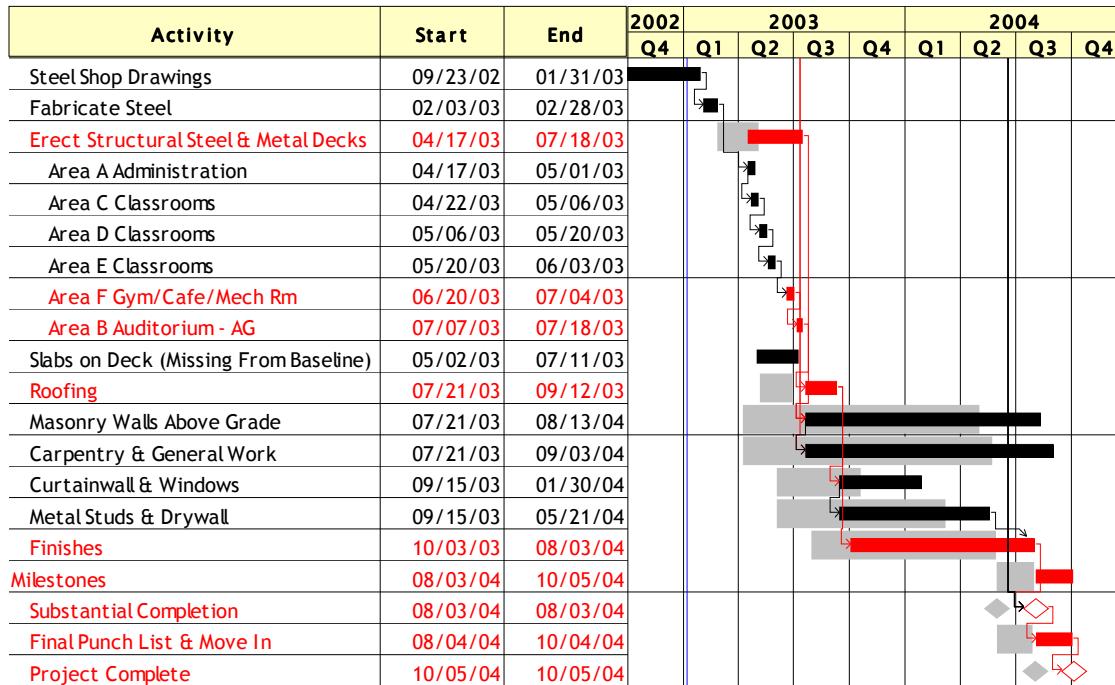
The impact of placing and removing cover due to the offset placement of foundations is an extra impact to the contract and an incurred cost to McDaniel to bury and uncover installations daily to combat cold and the lack of complete foundations. Had the foundation progressed as planned none of the conditions (poor sub grade, water intrusion, cold and frost) would have been a consideration in that the work would have been completed well before this condition.

The January 21st, 2003 project meeting note that shop drawing for buildings F & B steel were outstanding and that D & E drawings had been turned over to BIA and erection was planned for March, 2003. Oddly the attached construction schedule update notes that structural steel erection will start in A on February 13th a clear conflict in reporting.

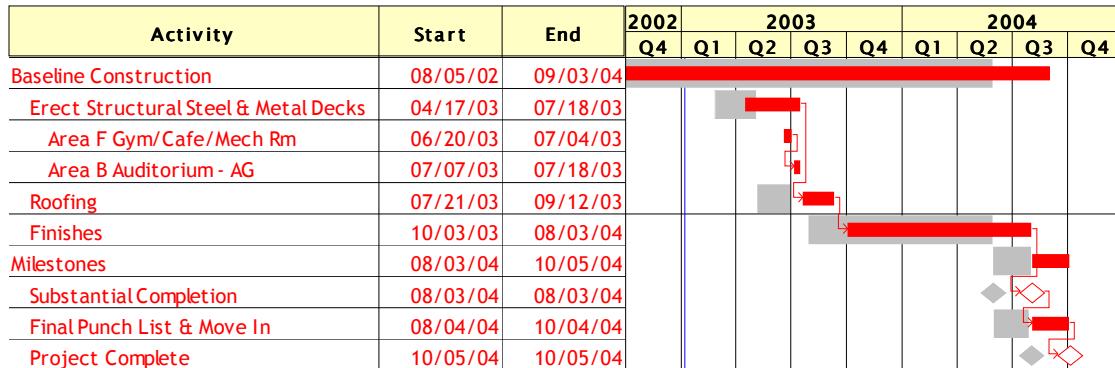
On January 24th, 2003 Baker Ingram & Associates transmits final Area E drawings as well as miscellaneous steel drawings for Area A. On the 27th and 29th of January structural steel drawings for Areas D, and E are returned by EDiS to Murphy.

The resultant impact of this issue is noted below using the original contract baseline logic and the assumption that steel will start in A on or April 17th, 2003 (Steel fab per the January 24th, 2003 meeting minutes has not commenced (Baseline schedule allows for fabrication duration and lag of thirty three calendar days prior to commencement of Building A steel erection), that there will be no further impacts from concrete

foundations and that the remaining design can be complete by January 31st, 2003 and fabrication by the 28th of April 2003:



The impact on the contractual schedule is far worse, with the steel driving the agreed baseline logic to an October 5th, 2004 completion date, more than two months behind schedule.



As of the 27th of January, 2003, as noted earlier, outside temperatures are running between 9 and 20 degrees. Had the original project schedule pace been adhered to by the foundation and excavation contractors the underground would have been two weeks from completion rather than what is transpiring:

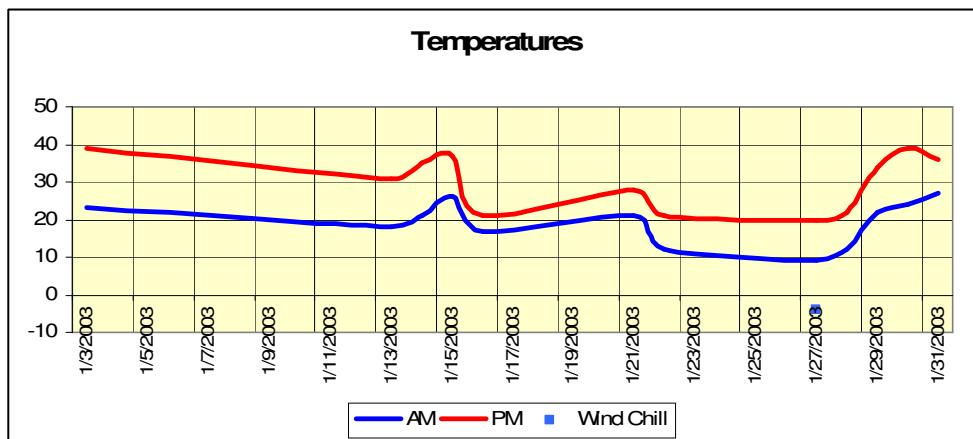
- Approximately 50% of A and less than 25% of C two weeks from planned completion

- Working piecemeal portions of Areas A and C due to sporadic and out of sequence performance by the foundation contractor
- Failure to establish a level, in tolerance building pad
- Failure to vacate the building area in a reasonable period of time

On the same January 27th, 2003 date EDiS transmits approved shop drawings for Area D. Given that the baseline schedule had a steel review and approval allowance from September 13th through November 7th, as of this date the process is some (11/7/02 Vs 1/27/03+) eighty one (81) calendar days behind schedule with no relief in the near future.

Work on Area A underground continues on the 28th through 31st of January 2003 in temperatures ranging between 9 and 36 degrees, little more than a week from when McDaniel should have vacated the open site (2/11/03).

The following is a brief recapitulation of Winter temps experience at the onset of January weather at the site.



At the conclusion of this month (1/31/03) McDaniel continues to progress A, as previously noted, and D underground (Storm & Sanitary).

Work continues on the underground in A area between February 3rd and 14th amidst inclement weather more than two weeks beyond the scheduled completion of all underground.

The February McDaniel daily report comments note:

- 2/4/03 - No work bad weather
- 2/5/03 - No work job wet and muddy

So that there is no confusion that failure to afford an accessible site and timely foundation installation is why the critical project pace is lagging and the February 14th 2003 McDaniel daily log clearly calls out the basis for impact to underground installation to date:

Merlin VanderMark (NDK General Contractor) needs to complete at least one area (Areas A-C)

The February 5th superintendents (School Superintendent) meeting notes that the project is four weeks behind schedule, but in much better shape than the Indian River School with a projected start of steel within the next two weeks. Given that the February 4th, 2003 project meeting number 12 noted that foundation walls had only just completed on the A building, and noting that overall time for foundations and foundation walls is under three months with a planned completion of January 14th, 2003, some three weeks prior, it would appear that A Building may be four weeks behind, but the remaining buildings will vastly eclipse this A Building lapse.

Clearly the superintendent was not being kept adequately informed of the level of delays being experienced as of this date in that in that the steel, in the forthcoming March monthly EDiS Owner report will slip to April 21st, and in the April monthly reporting will slip to a planned start of May 12th. These seriously flawed interim projections, aside from requiring contractor's to maintain inefficient crewing, demonstrate the lack of control and/or knowledge the construction manager has regarding the progress of this project.

On the 21st of March 2003 foundation and building pad work had progressed to such a level that McDaniel was able to complete their first underground, including test, Sanitary Waste & Vent Piping in Area D First Floor.

The EDiS Monthly report notes:

March has been a more productive month. The weather is improving and the crews are able to move the site with much less effort.

Area A is being prepared for installation of structural steel which should start April 21st, 2003.

Areas E, D and C are under construction and will be prepared for slab on grade installation by the end of April followed by erection of the steel structure.

Area F will proceed with the installation of concrete foundations and below grade masonry followed by the remaining section of Area B.

Mechanical underground work is nearly complete in areas, E, D & C. The plumbing contractor will move to Area F this week.

During the impacted, and largely unforeseen winter performance period McDaniel incurred \$50,799 in labor (October 2002 - March 2003), whereas his budget reflected an estimate of 648 hours, or \$20,736 to perform the same work. Therefore, as of March 30th, with underground still incomplete due to delay in foundations, foundation walls and sub grade preparation, McDaniel has overrun their bid estimate by (50,799 - 20736) more than \$30,000 with E, D and C ongoing and F & B yet to start. Clearly McDaniel exceeded under slab utility estimates several time over coping with poor access, unforeseen weather impact and general project delays.

The EDiS Monthly report continues by noting:

Currently the overall project is (8) eight weeks behind schedule.

Predicated on the most critical path (either concrete or steel) the schedule as originally bid will reflect impacted progress if the information forwarded by EDiS is accurate.

Sadly the EDiS monthly project report, to the district, for March of 2003, appears inaccurate in that the schedule attachment represents that footers and piers for Areas A, C and D were completed in early December, January and February, respectively. Yet EDiS's project meeting minutes of March 4th, 2003 note that excavation for footings and piers in areas A, C and D are ongoing and that EDiS had requested that NDK complete the piers in C to afford the mason work.

The March 18th, 2003 EDiS progress meeting notes that:

- NDK has not corrected the outstanding problems with the piers in areas A, C and D
- It was noted that many, if not all the piers installed, are installed incorrectly, not per plans and specifications
- Incorrect elevations at the footings is slowing down masonry construction

Clearly NDK was nowhere near completing the footings and piers as of March 18th, 2003 in Areas A, C and D, no less in December, January and February as erroneously reported by EDiS to IRSD I March of 2003. From review it was be ill advised to base purported schedule impact on the monthly schedule updates referenced performance, but, instead, preferably on the project meeting minutes.

It appears that NDK's performance became disturbing enough that on the 27th of March, 2003 EDiS, IRSD, BMG and NDK met to discuss NDK's performance. It had been the IRSD and EDiS belief that NDK's bonding representative would be in attendance, but they were not present. What was cited by the owner, and EDiS, regarding performance of this critical contractor over the past five months, was:

- Arbitrarily oversize piers and foundations

- Placing anchor bolts and accessories with proper templates and forms
- Inaccurate elevations on footers and foundations
- Insufficient notification of project alterations
- Delaying of construction due to performance by contracts including within NDK's scope of work, i.e. survey/layout
- Not responsive to written communications from Construction Manager pertaining to contract obligations
- Insufficient quality control

Of importance, looking forward is EDiS' suspension of NDK work in area F and B (March 27th, 2003 Mtg. Minutes Item 7) until correction of A, C and D areas were corrected further impacting project critical progress.

Clearly NDK's actions had not only delayed the project, and afforded McDaniel, among others, far more difficult working conditions, but now will require extensive reconstruction while additionally suspending any possible immediate progress in areas F and B.

That the owner was ready to terminate NDK, who truly had waylaid the contract that now was, per EDiS eight weeks behind schedule, and three months per our March analysis, is a stark contrast to their actual termination of McDaniel whose only failing was to continue to attempt to achieve progress working under the conditions of active interference and acceleration fostered by EDiS's and IRSD management.

That no foundation structure is available for backfill as of this March 27th, 2003 date, and noting the planned contractual completion for this critical work sequence of January 14th, 2003, the immediate incurred delay is currently two months with only a portion of the foundation work progressed, and much of that erroneously installed.

Taking into account the corrections requested and the remaining time to complete A through E and then mount F and B (Three months per initial foundation break out by EDiS) it would appear the foundation work is in excess of four months behind schedule.

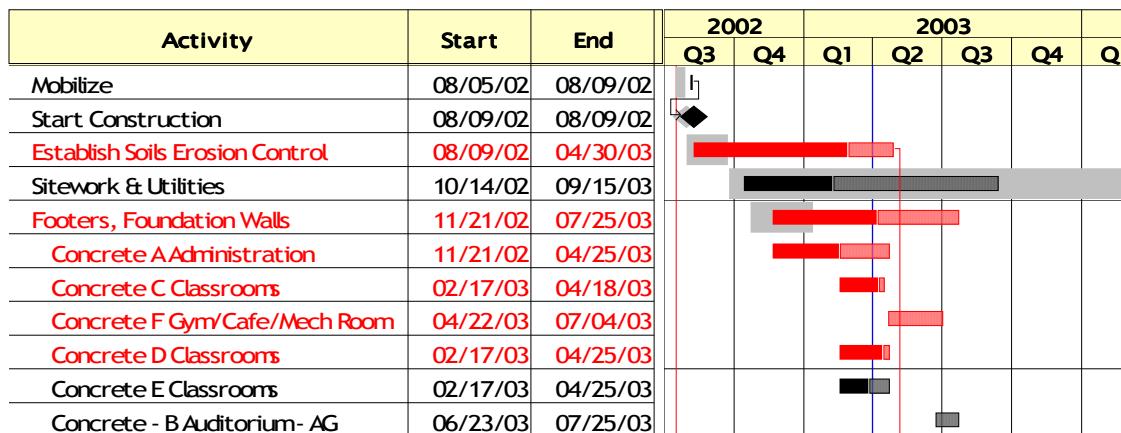
As of April 1st, 2003, eight months into the original project performance duration (8/28/02 - 5/31/04) of 642 calendar days, or approximately 37% of the contract duration exhausted the project meeting number 15 notes:

- 15.2.3 Footing inspections are ongoing (footings were to complete on February 20, 2003, forty days prior).
- No schedule update.
- Ponds are currently being pumped and prepped for excavation
- Revisions to anchor bolts Murphy to provide a proposal
- Croll is 95% compete on force main. Work should be completed 4/14/03.
- Croll is working on entrance road construction.

- NDK has been directed to focus on Areas A, E, D and C to prepare for structural steel erection. These areas must be complete by 4/18/03.
- Murphy is 90% fabricated on Area A steel. Steel will arrive 4/21/03.
- Area F is the only remaining shop drawing (Steel) to need approval. EDiS will investigate
 - (These submissions were to have been complete November 7th, 2002, five months earlier)
- It was noted that slabs on grade for Areas E, D and C need to be poured as soon as possible to keep masons on project.
- Areas C, D and E are ready for stone
- Underground plumbing is 90% complete in Areas A, C, D and E
- EDiS requested Tieder start their under slab utility immediately following the work by McDaniel (Tieder to start on 4/2/03)

As a result of these attested progress events the contract project baseline schedule with initial revision defined logic would suggest the following impact as of April 1st, 2003 for:

Footer, Foundation Wall Construction



Under slab MEP Rough

Activity	Start	End	2002		2003				2004		
			Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	
Steel Shop Drawings	09/23/02	04/30/03									
Prepare Building Pad	05/01/03	05/28/03									
Hydraulic Elevator	04/21/03	08/27/04									
Fire Protection	04/21/03	08/27/04									
Mechanical & Plumbing	04/21/03	08/27/04									
Electrical	04/21/03	08/27/04									
Underslab Utilities	01/13/03	08/15/03									
Area A Administration	01/13/03	04/18/03									
Area C Classrooms	02/17/03	04/18/03									
Area D Classrooms	02/17/03	04/18/03									
Area E Classrooms	03/17/03	04/18/03									
Area F Gym/Cafe/Mech Rm	07/07/03	08/01/03									
Area B Auditorium- AG	07/28/03	08/15/03									

Slabs on Grade & Structural Steel Placement

Activity	Start	End	2003							
			03	04	05	06	07	08	09	10
Slab on Grade	04/21/03	09/19/03								
Area A Administration	04/21/03	05/06/03								
Area C Classrooms	04/21/03	05/06/03								
Area D Classrooms	04/21/03	05/06/03								
Area E Classrooms	04/21/03	05/06/03								
Area F Gym/Cafe/Mech Rm	08/04/03	08/29/03								
Area B Auditorium- AG	08/18/03	09/19/03								
Fabricate Steel	03/17/03	05/30/03								
Erect Structural Steel & Metal Decks	04/28/03	10/03/03								
Area A Administration	04/28/03	05/12/03								
Area C Classrooms	05/01/03	05/15/03								
Area D Classrooms	05/15/03	05/29/03								
Area E Classrooms	05/29/03	06/12/03								
Area F Gym/Cafe/Mech Rm	09/05/03	09/19/03								
Area B Auditorium- AG	09/22/03	10/03/03								

Remaining Performance

Therefore as of April 1st, 2003, using reported expectations for footing, foundation, U/G, Slab on Grade and Steel Placement, in conjunction with the contract schedule logic, the impacted contract completion date is October 19th, 2004 for the substantial completion, and December 22nd, 2004 for overall completion.

More than simply an issue of longer durations, sporadic and piecemeal performance, inclement weather, poor access and egregious delays by predecessor contractors, the fact is that the work, or at least the promise of work, is now being stacked due to the unwillingness to recognize the true impact to the performance durations. This stacking will ultimately exacerbate planned productivity, resulting in substantive labor overruns.

Given that the schedule projects an impacted performance completion of October 2004 so early in the impact analysis, and noting

- that the above noted dates are largely eclipsed,
- that future logic will be hindered by poor performance from the steel, masonry and roofing contractors,
- that the steel start dates, in this schedule, will not start on the dates suggested
- that the actual time of termination was a month from the dates currently projected, in November 2004,

there appears substantive basis to suggest that IRSD, EDiS and possibly BMG did not objectively review McDaniel's performance and, as a consequence, unfairly terminated McDaniel's contract. Given the preponderance of issues of critical delay prior to McDaniel's performance and the progress achieved by McDaniel prior to termination the possibility of termination to obfuscate active interference and untimely resolved delay impacts is a possibility.

As of the April 15th, 2003 EDiS project meeting NDK continues to focus on areas A, E, D and C, with F and B still suspended until A, C, D and E areas are ready. The concern is that why was NDK not asked to accelerate and add labor rather than directed to ignore a sizable portion of the contract (Buildings F & B). In essence by not taking the very same actions that were implemented with McDaniel, the Owner and EDiS facilitated failure to progress the foundations, which, accompanied by the time lost due to incorrect concrete placement, and the belated fabrication of steel, followed by untimely roofing performance, are the critical impacts to progress.

At this juncture in the contract, April of 2003, McDaniel begins to supply basis of impact, and notice of claims, to the IRSD/EDiS. Specifically on April 22nd, 2003 McDaniel notifies EDiS:

Since last December we have been delayed by the lack of progress by the concrete contractor. The (2) main problems have been his lack of manpower and his inability to pour the footer in the correct places. Unfortunately we will be forced to pull again and stop work again.

We can't finish any of the wings because of numerous loose ends. For example C, D and E wings need stone to be installed. Also in A I need the footers to be installed correctly and with no loose ends.

My biggest concern is that the steel will be here shortly and then I won't be able to work in this area again. Everyday the job gets farther behind due to lack of work by the contractor and everyday our costs increase.

On the following day, April 23rd, 2003, McDaniel completed F Wing storm drainage and sanitary waste - vent piping, and tested same.

Rather than steel arriving April 21st, 2003, as referenced in the March reports, or May 12th, 2003 as referenced in the April Owner report from EDiS, in fact, as of May 1st 2003 further questions, incorporated in Murphy RFI #25 were being posed regarding Area "B" structural steel. On the 2nd of May RFI #26, dealing with Area F structural steel clarification was transmitted, and in request Murphy noted that failure to expedite response could delay the project.

On the 5th of May 2003 EDiS confirms that NDK is in fact impacting McDaniel performance, but references the requirement of contractors to layout and coordinate their work.

Oddly McDaniel did not complain of failure in layout or coordination, simply McDaniel was noting the continued failure of NDK to staff the project and the undeniable delay it had caused to the project that would ultimately result in critical delays to the project.

EDiS closes their response to McDaniel's notice by noting that they believed the issues of impact, noted in McDaniel's letter, would be rectified by the end of April. As we have seen from the size of the delays and their broad impact on work to date there is literally no way that the five months of lost critical performance to date could be mitigated with the management, and contractors, discussed to date.

In fact if it was the interior to right a modicum of the impact incurred to date the compression necessary, if the substantial completion milestone were not to be extended, would amount to a constructive acceleration of McDaniel's contract.

As a follow up to their initial notice, and response to EDiS's response of May 5th, on the 8th of May McDaniel's sets forth a seminal notice of impact covering the impact of events to date:

We previously wrote you on April 22nd, 2003 to advise you of the delays on the project and how they are affecting our progress. Pursuant to paragraph 4.7 of the General Conditions, we write to formalize our claim with the School District for an extension of time (Paragraph 4.7.8) and additional cost (Paragraph 4.7.7) as a result of delays and inefficiencies at the Project.

As you are aware, Specification Section 1305 sets forth the terms and provisions concerning the construction schedule. In particular paragraph 1.1 indicates that:

The contractor agrees to adhere to intermediate milestone dates of substantial completion and final completion established herein. The contractor also understands that all work must be performed in an orderly and closely coordinated sequence in order to achieve the specified milestone and completion dates, and the contractor hereby agrees to perform his work in conformance with his pre bid construction schedule established herein or with the then current an approved Project Schedule.

Attached to Section 1305 is a schedule which sets forth the following activities start and finish dates:

Activity	Start	Finish
Footers, Foundation Walls	10/23/02	1/14/03
Under slab Utilities	12/4/02	2/11/03
Slab on Grade	1/15/03	4/8/03
Erect Structural Steel	2/26/03	5/6/03

In preparing its bid to the school district for the plumbing and mechanical work, McDaniel reviewed specifications, including the General Conditions and Section 1305, and relied on them to determine its price for the work. Thereafter, McDaniel executed a contract with the School District, which incorporated the specifications and the expectation that the Project would proceed as set forth in the schedule. As set forth below, the Project has not proceeded in the manner required by the initial schedule.

On September 17th, 2002, at progress meeting number 2 EDiS issued and reviewed a schedule data date of September 18th, 2002. During the meeting, the Owner and EDiS, among others, elected to extend the duration of the footers and piers for Area A by three weeks. This decision was the first of several circumstances delaying the underground work to be performed by McDaniel.

On October 29th, 2002, EDiS issue an updated schedule data date of October 3rd, 2002, which revised dates for, among others things, the initial phase of work, including Area A. During that meeting it was stated that layout for the building footers would start by November 1st, 2002, but that the work might be impacted by weather. It was expected that execution of footers in Area A would start on November 3rd, 2002. As we know from the meeting minutes dated November 26th, 2002 (Progress Meeting No. 7) The November 7th date did not hold.

Activity	Start
Footers, Foundation Walls	11/21/02 (Actual)
Under slab Utilities	12/20/02
Slab on Grade	1/14/03
Erect Structural Steel	2/4/03

On or about December 2nd, 2002 McDaniel submitted to you an activity schedule, which set forth expedited start and completion dates for the work under our contract. We specifically identified work activities for the various areas of the Project.

For example we expected to install our underground plumbing in Area A starting December 12th, 2002 and finishing January 1st, 2003. Similarly for Areas C, F and B, we show start and finish dates for underground work and other activities. As I am sure you are aware, none of the above dates have been met. In fact footers for Areas A, C, D and E were only recently completed. With respect to area F, only part of the exterior footing has been completed. No Footings have been installed in Area B.

Presently there is not steel erection on the Project even though, according to your November 19th, 2002 schedule, the steel erection should have been completed by April 1st, 2003. With respect to the slab on grade, no work has started, nor has any stone been placed in any area of the Project so that McDaniel can proceed with his underground utility work.

The initial contract schedule indicates that our underground utility work was to begin on December 4th, 2002 and finish February 11, 2003. None of this work has started, let alone been completed, because of lack of progress by the owner's concrete contractor. As a result McDaniel Plumbing and Heating has been forced to find other work to perform, which is out of sequence with its original bid proposal to the owners.

In view of the above, we expect the owner to provide, at this point in time, a five (5) month extension of the completion of our work. Additionally we expect an adjustment to our contract price for the delays and inefficiencies occurring on the Project. We intend to provide you with details concerning our additional costs including labor

overruns, extended field conditions costs and extended home office costs to account for the delays caused by with the owner or its concrete contractor. We are in the process of determining these additional costs and will transmit them to you once they are finalized. Please provide us with the owner's response in accordance with the provisions of Article 4.7 of the General Conditions.

On May 7th, 2003 McDaniel' responded to EDiS' re request for information regarding dimensions and location of required roof openings, initially requested by the steel fabricator in their RFI # 26 dated May 2nd, 2003. At that time McDaniel's note that they had previously marked up and transmitted a set of drawings depicting the openings and penetrations required.

The project meeting number 19, dated May 27th, 2003, nearly three weeks past the second McDaniel notice, and the project continues to languish:

- Steel erection has started
- Conectiv will be forwarding a proposal to the owner for permanent electrical service
- EDiS would like to move towards getting the M/E room floor poured as soon as possible
- Weather has delayed steel erection by three days
- Enterprise will work with NDK to clean footings so that block foundations can be installed

Clearly, from these references, as of May 27th, 2003, some nine months into the contract performance period, or 42% of the contract performance duration exhausted, and with foundation walls still ongoing, while, as noted in the McDaniel letter of May 8th, the footings are only partially complete in B and yet to start in F, the steel erection has commence. In fact Meeting 17 dated April 29th, 2003 compared to meeting 18 May 13th, 2003 brackets the period of steel erection while the Superintendent's meeting minutes from May 12th, 2003 reference a May 9th start and the EDiS Monthly report for May notes completion on or about June 9th, 2003 for Building A. Given that all steel was to have completed by May 6th, the completion of only A on the 9th of June is a stark contrast.

As referenced earlier, that steel commenced as of May 13th, 2003, only confirms the slippage from the original start date of February 23rd, 2003, or a net loss of three months. Note that the five month overall delay being claimed will result from delinquent footing and foundation impact on the ability to complete the steel, pour slabs and being masonry in earnest and the subsequent impact on roofing.

On May 27th, 2003 McDaniel tests Area F Boiler Room 6" fire and 4" Domestic Water Supply.

The monthly EDiS project report for May 2003 notes that

- The steel erection will complete in A building, and work progressed on the C building steel, by the 9th of June 2003,
- Areas A, D and C are prepped and ready for concrete pours. All should be done by June 13th.
- Foundation concrete and masonry are being performed in B and F,
- The project remains ten weeks behind schedule

The ten week EDiS assessment of impact, based on a May 6th baseline completion for a two and a half month performance period would suggest a minimum of three months impact. Noting that slabs were to have been complete May 8th, after a performance duration of three months, and in reality not a single slab was placed as of the end of May would suggest, again, three months impact.

Despite the resounding basis for a thirteen week delay impact at the conclusion of May, the Superintendents report notes, only weeks earlier on May 12th, 2003, a five week delay, while the Building and Ground's meeting minutes of May 13th references no impact.

Clearly, given the prevalence of eclipsed milestone dates there can be no basis of an impact assessment of less than three months, and surely not five weeks or zero weeks. Possibly the inability of the Superintendent, or Building and Grounds to receive accurate input, or report same, is one of the reasons why the Owner and their agents unfairly perceive McDaniel as a stand alone impact to this contract outside of select weather impacts. Given the number of reported impacts and the evident failings of NDK, so early in the project one would have to question how the owner considered McDaniel in default.

By the 3rd of June 2003 the project would have been under construction for more than nine of the overall twenty one months, or slightly under 50% of performance time consumed. Per the baseline schedule the roofing should have been complete, curtain wall in progress and interior finishes starting in earnest. In actuality, as of this date we do not have steel complete in any building with A nearing completion and C to start June 12th (MoM 20), otherwise there is no progress on roofing, and little on above grade masonry, slabs while the building is without permanent power, yet another impediment to McDaniel's timely performance of the contract.

To that end, on the 3rd of June 2003 Frank McHenry of McDaniel notes:

There is no temporary electric on site as per spec section 01511. Therefore in order to continue working we have rented a generator and will be billing you for it plus the daily labor to service the generator. This will continue until temporary electric is installed as per specs (No longer than a 60' cord needed)

The area F kitchen and toilet under slab sanitary waste and vent piping passes test on the 4th of June 2003.

On June 9th, 2003 McDaniel for the first time is installing gas piping in block walls in Area C, while the steel erection continues in Area A, and Area B requires backfill. The following day on the 10th of June underground is complete in F, Area A underground continues to be laid out and neither steel nor concrete workers are on the project this day. On the 13th of June a concrete slab was poured in Area E.

By the 11th of June Area F under ground was complete and McDaniel remobilizes to Area A to commence above ground rough.

Yet as Area F underground is completing, on the 10th of June 2003 McDaniel cannot start Area B (Incomplete footer installation) or continue Area A (Steel work overhead). Given that all foundations were to have been completed in January 2003 the Area A delays and those in Area F have extended this critical work scope five months.

At the project meeting of June 24th, 2007 McDaniel continued to reference site conditions that were impacting their performance (Item 17.3.14), this time the wet nature of the building F pad that is waylaying their ability to place underground piping. Given that Croll hasn't been on the job for several weeks, that the site piping remains incomplete, months beyond the scheduled dates, it would appear that the site is suffering from abandoned site water management and the under slab MEP is being correspondingly impacted which will likely extend the performance time of this installation, resulting in higher labor hour tally.

Additionally, during the June 24th, 2003 meeting it is noted that:

- E & F Steel have not been delivered to the site
- A, B, E & F have not received any slab pours
- Second floor of A are (sic) to be poured on 7-2-03

As of the 26th of June 2003 (McDaniel Reporting) McDaniel has begun duct installation, on the 2nd floor of building A, off of metal deck (a significant impediment to productive installation), setting floor and roof drains in building A 2nd floor, and continuing to forward underground in B.

By the 3rd of July steel decking in Areas C & D have not been set, while McDaniel continues underground in F and domestic water hangars in C.

On the 7th of July McDaniel places C Wing second floor sanitary and vent under test

By the 8th of July gas hangars and piping is progressing overhead in C, but in that daily report McDaniel cites the lack of adequate steel erection forces and the need for NDK to backfill B to allow underground to proceed in earnest. As of July 8th foundations appear to have been completed in B almost six months behind schedule:

Activity	Start	End	2002		2003	
			Q4	Q1	Q2	Q3
Footers, Foundation Walls	11/21/02	07/15/03				
Concrete A Administration	11/21/02	04/25/03				
Concrete C Classrooms	02/17/03	04/18/03				
Concrete D Classrooms	02/17/03	04/25/03				
Concrete E Classrooms	02/17/03	04/25/03				
Concrete F Gym/Cafe/Mech Room	05/01/03	07/15/03				
Concrete - B Auditorium- AG	06/03/03	07/08/03				

The July 8th project meeting notes that Croll has not remobilized the project on the 26th of June as previously promised and, in fact, as of that date, been absent from the site for more than a month. EDiS notes in the July 8th, 2003 item 21.2.1:

Area C deck need to be completed by Murphy Steel. Once the deck is completed the other contractors including masonry, mechanical, electrical and metal studs will have areas to work.

Given the need to prep underground, building pads, site work, roadway, lay down areas, etc..., when Croll is absent the overall project performance suffers.

The July 11th daily report notes a number of impacts arising from NDK's failed performance, including, rough grading F to allow drain and cleanout installation and slab pours, backfill of ditches in E to allow overall underground. Note that project meeting minutes had previously referenced these areas as complete, but it appears that come back work is necessary due to NDK's inability to keep up with the contract schedule, now many months behind the baseline pace.

On July 15th, 2003 Gas Mains at the first level of C are under test while the underground storm piping is completed in Area F.

As of the 16th of July McDaniel continues underground in A (Water is required to be pumped this morning prior to proceeding) while ductwork and domestic water continue in Area C.

The July 21st - August 4th, 2003 look ahead sequencing noted that NDK has not completed:

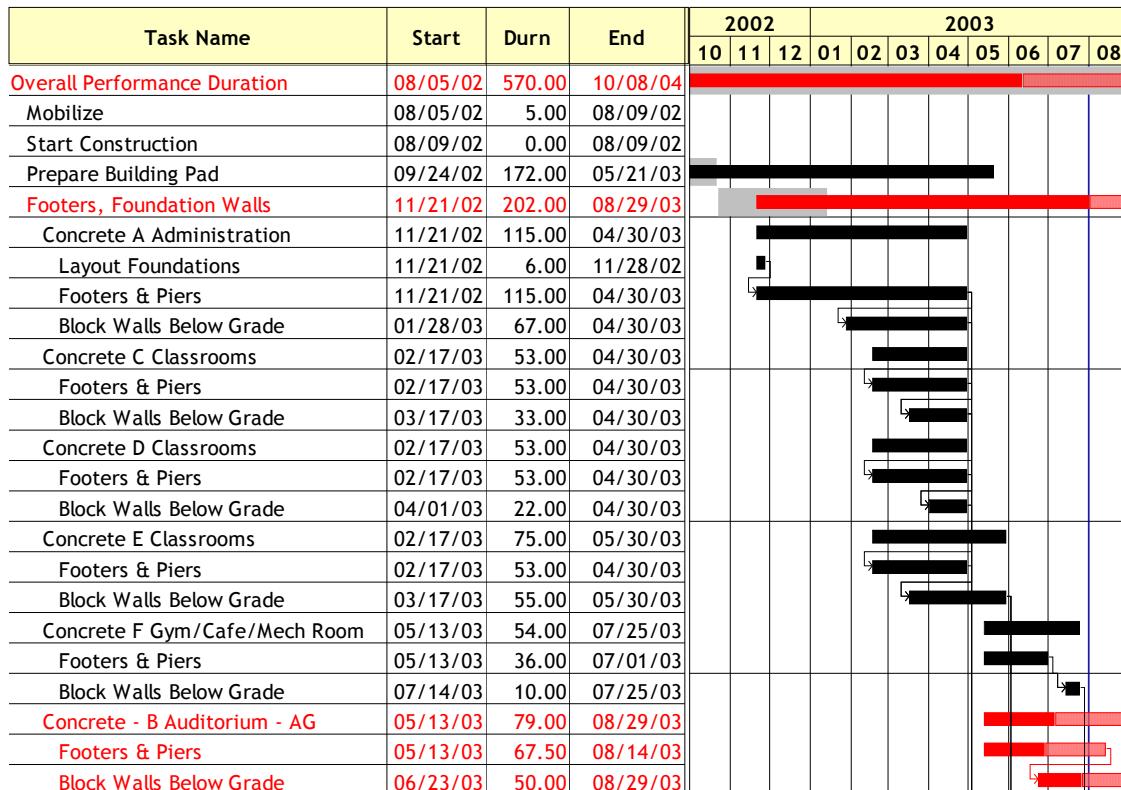
- Area B foundations,
- A sub grade prep,
- Second floor C deck pour,
- 2nd floor D prep and pour,
- Steel prep Area F,
- Pour mechanical rooms in Area F

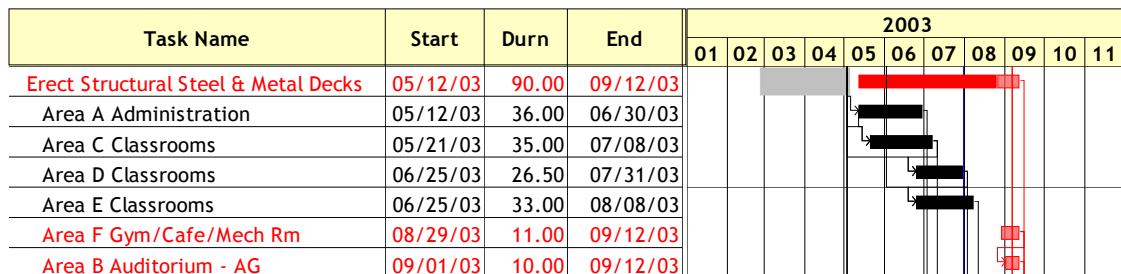
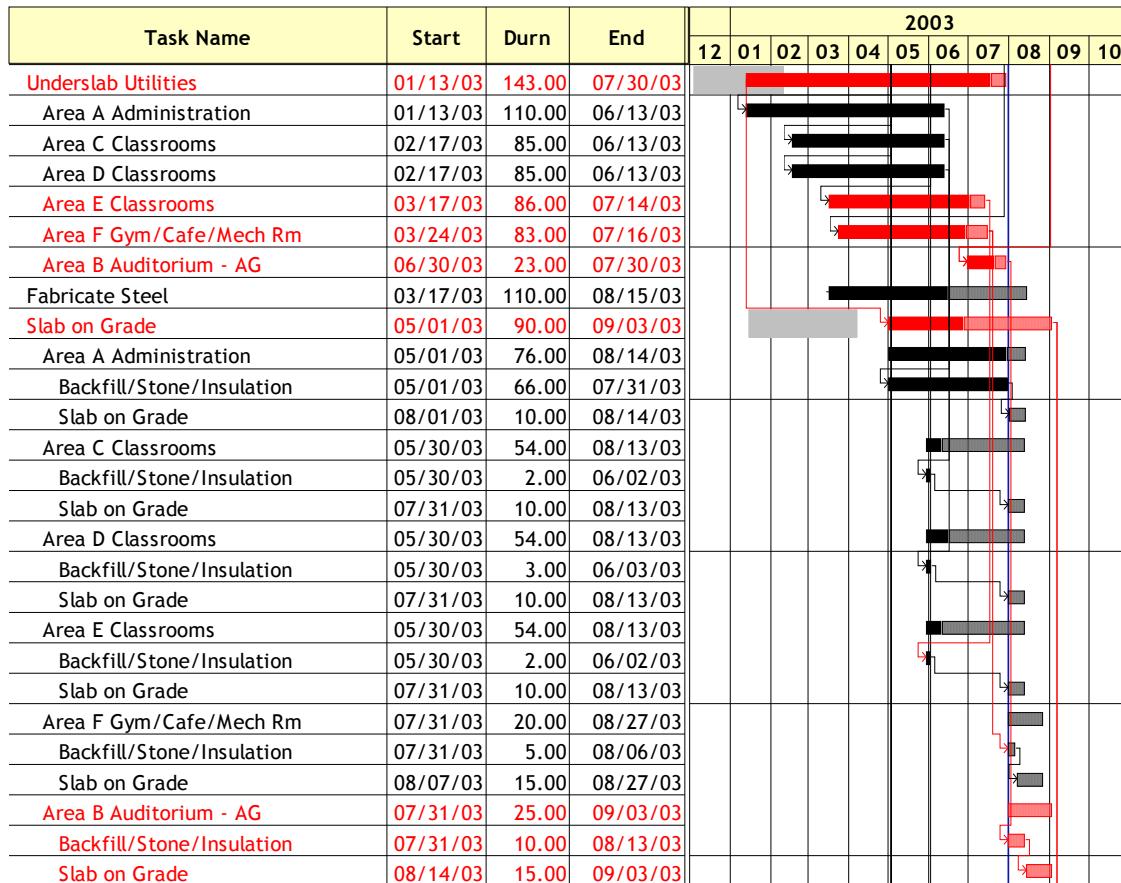
Additional areas of noted delay are the mason's delayed completion of F foundation walls, the remaining steel erection in Areas E & F and the need to set stair in C, D and E, and the failure to complete the site storm sewer lines that would allow building drainage once roofs have been installed, or at least, now, to relieve some of the flow from the roof decks.

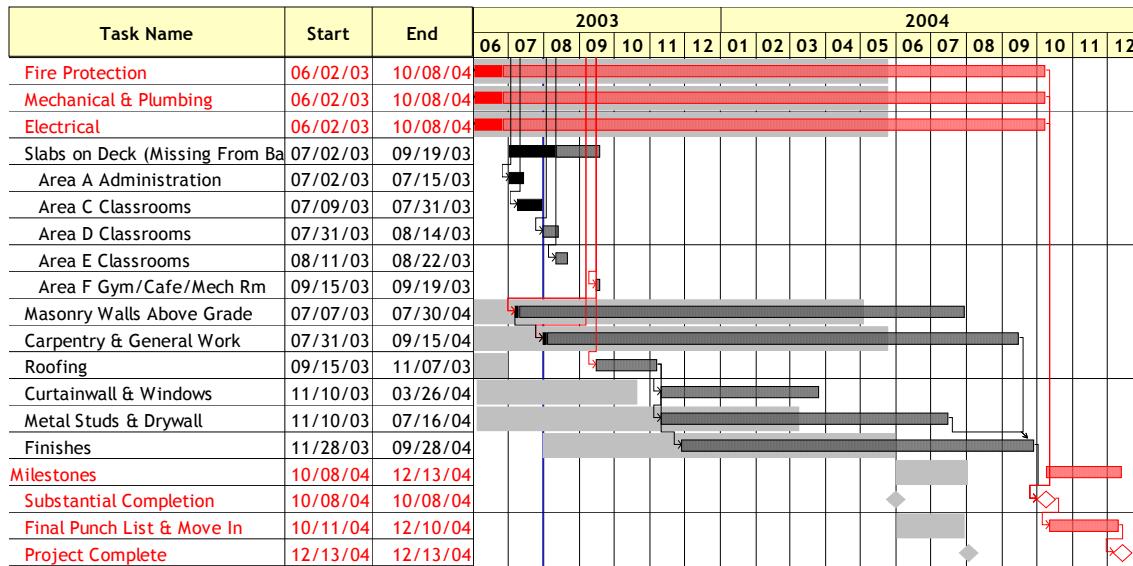
As of July 25th, 2003 ductwork has commenced on the 2nd floor of C, an area without any roof (Note Mtg. 22 wherein CTA is notified that work in Areas C, D & E will be needed within the next 4-6 weeks). Especially disconcerting is that NDK, the delinquent site concrete contractor is performing the metal stud erection that is impacting portions of C pours and generally will further waylay future project progress.

The continued inability of EDiS or the owner to promulgate NDK to perform has, along with the undermining by the steel contractor, been the critical impact to the project to date.

Based on the information in the July reporting the following excerpts represent actual progress (MPH 08.TLP):







Clearly, from this analysis the project has slipped four and a half months from May 31st, 2004 to an impacted contract substantial completion of October 8th, 2004, and the roofing contract, which will yield further impacts, has yet to begin.

The August 4th schedule look ahead largely mimics the July 21st variant due to failure of NDK and Murphy to perform the bulk of previously projected activities. The performance outlined, as of August 4th, 2003, is:

- Pour first floor A 8/11/03 (*Scheduled 1/15/03, six and a half month impact*)
- Complete below grade concrete in Area B & backfill foundations (*Scheduled 1/14/03, seven month impact*)
- Prep and Pour 2nd floor C 7/29/03 (*Scheduled 2/11/- 24/2003 [7/03 Update] five month impact*)
- Prep and Pour 2nd floor D 8/4/03 (*Scheduled 2/25/- 3/10/2003 [7/03 Update] five month impact*)
- Complete Decking Area E (*Scheduled completion of steel erection 5/6/03 [Baseline] three month impact*.)
- Complete Area F Steel Erection 8/30/03 (*Scheduled 5/6/03, four month impact*)

Noting that the building is to be completed in less than nine months, and that a total of thirteen months has been expended, to still have partial steel erection, slab pours and no roof is a serious critical impact, and assuredly has hampered contract performance.

In addition these “projected” accomplishments (8/4/03 schedule look ahead) demonstrate that the July 31st, 2003 impact update is possibly, substantively conservative and actual progress, as noted in each building above is between five and seven months behind schedule. Though some work can proceed ahead of the impacted

pace, the net result is that the whole building has to progress per the plan, and if not, equitable adjustments must be allocated in a timely fashion.

The August 5th, 2003 EDiS CPM Schedule update number 23: "Planned work for 2003-08-04 to 2003-08-18" notes that:

Concrete - NDK
 D: 2nd floor pour NOT DONE
 C: 2nd floor pour done 2003-07-28
 C: Ext metal studs started
 B: Below grade concrete and backfill NOT COMPLETE
 A: 1st floor pour NOT DONE
 Penthouse floors have not been poured
 F: Mechanical/Elect rooms not poured
 Murphy
 F: Erection not done
 Stairs not complete
 Enterprise Masonry
 C: Begin brick 8/4
 A: Complete 2nd floor walls on 8/18
 C: Start 2nd floor CMU walls
 A: Start 1st floor CMU walls - waiting on slab on grade
 Complete all stair wells
 Complete wall at end of area E

As if to demonstrate how the record maintained in the progress meetings does not necessarily reflect the true project impact the A building steel, previously noted to have completed on June 30th, 2003 remains ongoing through August 11th, 2003, more than three months behind schedule for the earliest building in the erection sequence:

8/11/03 Bldg & Grounds Meeting Minutes
 A: All steel and decking complete, steel framing in classroom
 D: Steel framing to start next week

Possibly in an effort to ameliorate the delay impact EDiS's August 2003 schedule update has relinquished the month of float/turnover between substantial and final completion afforded in the baseline schedule.

C and High A roofing commencement was set for September 8th, 2003, on the 13th of August by EDiS in their direction to all contractors.

8/13/03 - EDIS Ltr: McCone to All Contractors
 C: Ext metal studs, sheathing and masonry are proceeding. Roofer has to get going
 Roofer promises to deliver and stage materials for area C, area A high roof and C penthouse on 2003-09-02. Roofing will start 2003-09-08.

The schedule activity look ahead listing of August 19th appears to regress with B below grade concrete shown incomplete versus the backfill of same on prior look aheads. Area A slab on grade is referenced to be complete August 27th, 2003, nearing five months beyond the baseline date.

Not that NDK is delaying only the foundations and slabs, the job meeting of August 19th notes that NDK has completed exterior studding of Area C, but has yet to address the C to A high roof transition necessary for commencing the first area of roofing on the project. That the building would be studded and sheathed, to any extent, without a roof, is poor logic and will hinder mechanical overhead installations.

Oddly with overhead mechanical performance proceeding in areas C, D, E and A (Note areas F and B are under construction by Murphy and Kemenash and thereby barring McDaniel performance) on the 20th of August 2003, McDaniel receives a notice from EDiS that they are falling behind schedule. This is the first of many erroneously founded assertions of delay by EDiS who, faced with failed performance by NDK, Murphy and CTA that has generated to date five months of impact, has the temerity to argue McDaniel culpability.

The following excerpt from the August 19th, 2003 meeting #24 illustrates the failed progress to date by each of these contractors and the ultimatum by EDiS the Roofing will start in C and A building as of September 8th, 2003:

8/19/03 CPM M 24

NDK - Concrete

A: 2nd floor poured, this is scheduled for August 27th, 2003 (Omitted from baseline. Per the second schedule this should have been complete February 13th, 2003, 6+ months impact)

F: Remainder will be poured after steel is complete (Omitted from baseline. Per the second schedule this should have been complete May 8th, 2003, 3 months impact)

B: Will be ready for steel by end of August (Omitted from baseline. Per the second schedule this should have been complete May 1st, 2003, 3+ months impact)

Murphy - Steel

F: Erection started 7/13/03 (Per the second schedule this should have been complete April 17th, 2003, 4+ months impact)

B: Erection will start 9/15/03 (Per the second schedule this should have been complete May 2nd, 2003, 5+ months impact)

Enterprise Masonry

A: Cannot work on 1st floor until poured. Focusing on ext masonry walls

A: 2nd floor mostly complete

C: Brick veneer in progress

D: Brick veneer in progress

Drywall

A: High to low roof transition: NOT STARTED - LATE

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The fact that, as of August 19th, 2003, no building is under roof, and that the project is two months beyond the planned roofing completion, that steel will, likewise, is completing more than five months late and that foundations are as much as six to seven months late, demonstrates that the critical delays to the contract were well before McDaniel's involvement.

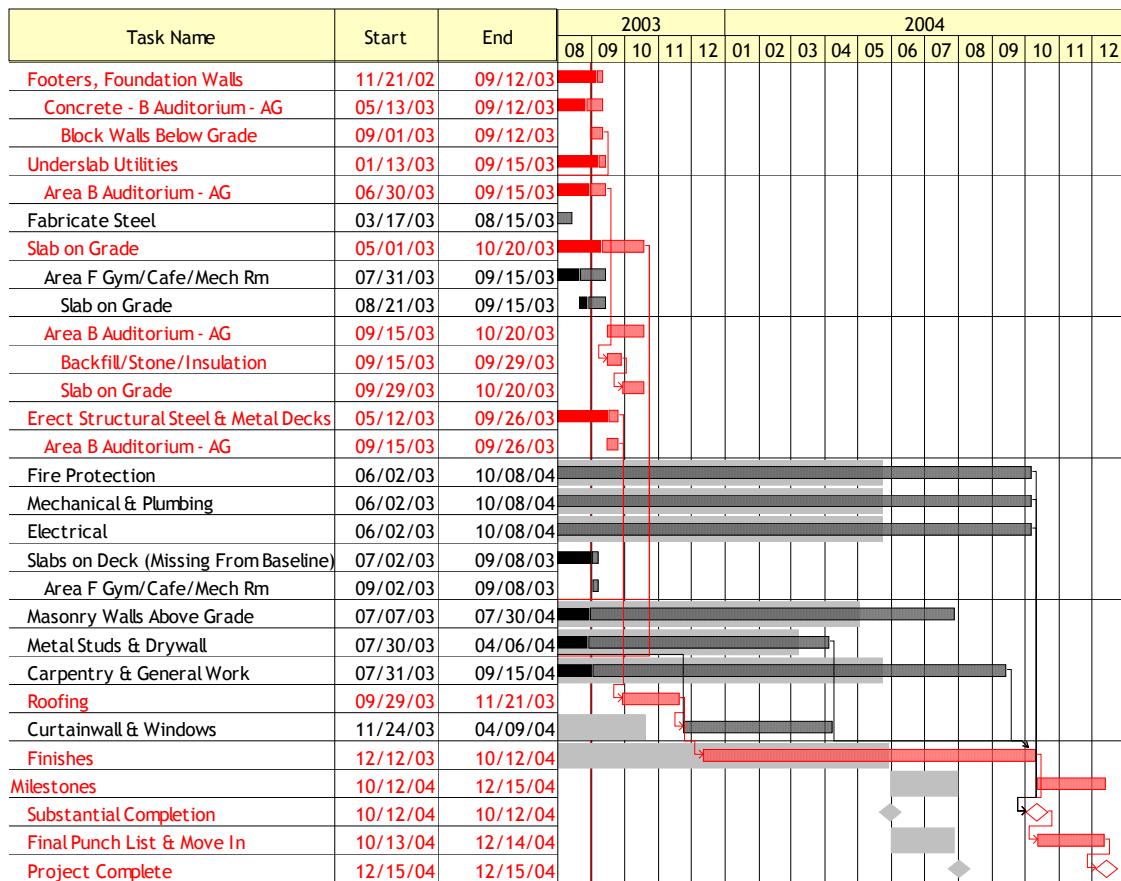
That EDiS' schedule attached to the May 24th, 2003 report references an August 2nd 2004 Final Completion, affording no extension, is requiring compressed performance durations in an attempt to ameliorate the poor performance to date by other predecessor contractors, not McDaniels.

EDiS apparently misplaced critique of McDaniel appears to be founded in their hopes of constructively forcing McDaniel to work future sequences that will ameliorate sizable, mounting delays and complete on or near the planned completion milestone.

That much of McDaniel's work was required to proceed off of rough grade, or metal deck, to facilitate the level of progress to date is a testament to McDaniel's willingness to perform, sadly this cannot be said for a number of predecessor trades.

On August 27th, 2003 the plumbing inspector signs off on underground for Areas F and B.

The August 2003, Monthly EDiS progress report notes, nine months to the schedule project substantial completion, the following progress and future performance dates, which when incorporated in the baseline schedule performance logic, and progress pace by prior contractors, generates the following logic:



What is important to note from this analysis is that, as of this late date, there is no roofing, or curtain wall, underway that is necessary to continue overhead mechanical construction as of this date. Those rough MEP installations that have been accomplished result solely from the various mechanical trades, among them McDaniel, working out of sequence, in less than favorable conditions, willingness to ameliorate prior delays by others, but that work was largely inefficient and piecemeal.

As noted in the August 13th, 2003 EDIS/McCone letter the roofer must be prepped to proceed no later than September 5th, 2003. Even if this does transpire there is still a net four month critical delay from the planned roofing commencement in the baseline schedule and ultimately more when the actual roofing performance requires more than four times the planned duration resulting in roofing as late as late June of 2004. Additionally, if the roofing experiences delays, like every prior critical construction component the winter of 2003/2004 could further impede progress and therein enclosed work areas to forward both rough and finish construction.

Finally, the prior EDIS demand that conditioned air be on by August of 2003 appear nonsensical in retrospect given the lack of siding and roofs.

As of September 2nd 2003 the project meeting notes that CTA (Roofer) is scheduled to begin September 10th, 2003. Additionally Building F steel, previously reported as complete, in fact, is ongoing, while building B steel erection has not commenced.

9/2/03 CPM Meeting 25

Concrete

- A: Remainder COMPLETE
- B: Footers and piers not complete
- F: Mechanical/Elect and locker room areas to be poured on 9/4

Structural Steel

- F: Started 7/31. Decking on gym and aux gym NOT DONE
- B: Erection NOT STARTED

Enterprise Masonry

- A: 2nd floor - mostly done.
- C: Brick veneer ongoing
- D: brick veneer ongoing

Roofing

- A, C & D ready for roofing
- A: Scheduled to begin 9/10
- C: Scheduled to begin 9/10

The September 2003 EDiS Monthly Project Status Report references the following progress by building:

- Area A 1st floor slab on grade complete
2nd floor masonry walls complete
Interior metal studs started
Penthouse: concrete and masonry complete, HVAC units set
- Area C Exterior metal studs and sheathing complete
Interior metal studs nearly complete
Brick veneer 85%
Penthouse: Concrete & masonry complete, HVAC units set
- Area D 2nd floor concrete deck complete
Ext studs and sheathing complete
Inst of interior studs ongoing
Penthouse: concrete & masonry complete, HVAC units set
- Area E 2nd floor concrete deck complete
Penthouse: concrete & masonry complete, HVAC units set
- Area F Stl erect complete
Gym & Aux gym need roof decking
Slab on grade has been placed in Cafeteria; other areas have not been poured.
- Area B Underground utilities nearly complete
Footers & piers complete
Stl erection scheduled for mid-Sept.

During the September 8th, 2003 Building & Grounds Meeting Minutes Mr. Weer states:

“The project is moving along well, and the building should be weather-tight soon...

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Mr. Weer is confident that this building will be ready to open in September."

Obviously to facilitate a September 2004 occupancy the project schedule cannot accommodate any delay, ten weeks, as reported by EDiS, or otherwise. That we have estimated the revised completion at December 15th, 2004 would indicate a deviation of some four plus months from the planned project completion date of August 2nd, 2004 barring any owner conception that the building will be open in September.

More than the failure of Weer to state, or EDiS to apprise IRSD of the actual impact is the unwillingness of anyone on the EDiS/IRSD team to recognize and timely administrate mounting delays by requiring improved performance by predecessor contractors or extending the contract performance period.

Weer's commentary is a stark contrast to continued, delinquent progress reported only eight days later including during project meeting #26 dated September 16th, 2003, including , but not limited to,

9/16/03 CPMM 26

Concrete

F: Mechanical/Elect and Locker Rooms poured 9/4/03

B: Kitchen and Main Gym will be poured next (*Planned completion 4/8/03 - 5+ Months Delay*)

Murphy Steel

F: Erection complete on 9/12/03 (*Planned completion 5/6/03 - 4+ Months Delay*)

B: Will begin 9/22/03 (*Planned completion 4/8/03 - 5+ Months Delay*)

Masonry

A: Walls not yet begun

B: Below-grade CMU complete

F: CMU walls for mechanical/electrical room started

Drywall

E: Ext metal studs and sheathing started

C: Roof Blocking complete

D: Roof blocking ongoing

Roofing

CTA did not attend meeting

CTA started roofing on September 11th, 2003 and will be working in areas A, C and D (*Planned commencement 5/7/03 - 4+ Months Delay*)

Clearly the next critical step in the progress of the project is the building enclosure, but most notably the roof. As referenced earlier the roofer commenced on the 11th of September, but his performance is sporadic as noted in the following McDaniel Daily Report:

9/27/03 MPH DJR

"Roofer has not been on job all week 9/22 - 9/26/03. Need roof installed on

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penthouse in Areas C-D-E”

The following is a representation of actual progress as of September 30th, 2003.

9/30/03 CPM Meeting 27

Concrete

B: Scheduled for next week

Steel Erection

B: Started 9/22/03

Roofing

Started 9/10. Will proceed C->A->D->E

CTA not present at meeting

CTA needs to return to the job

Drywall

E: Ext metal studs & sheathing ongoing

C: Roof blocking complete

D: Roof blocking complete

E: Installation of interior studs ongoing

2A: Installation of metal studs on top of CMU walls

Though the roofer did mobilize the site, as of the 11th of September it does not appear any roofing has commenced and as noted above, from McDaniel’s daily report as of September 27th, 2003, this is impacting penthouse construction as well as actively interfering with interior mechanical construction (protection of installations in place) throughout the project.

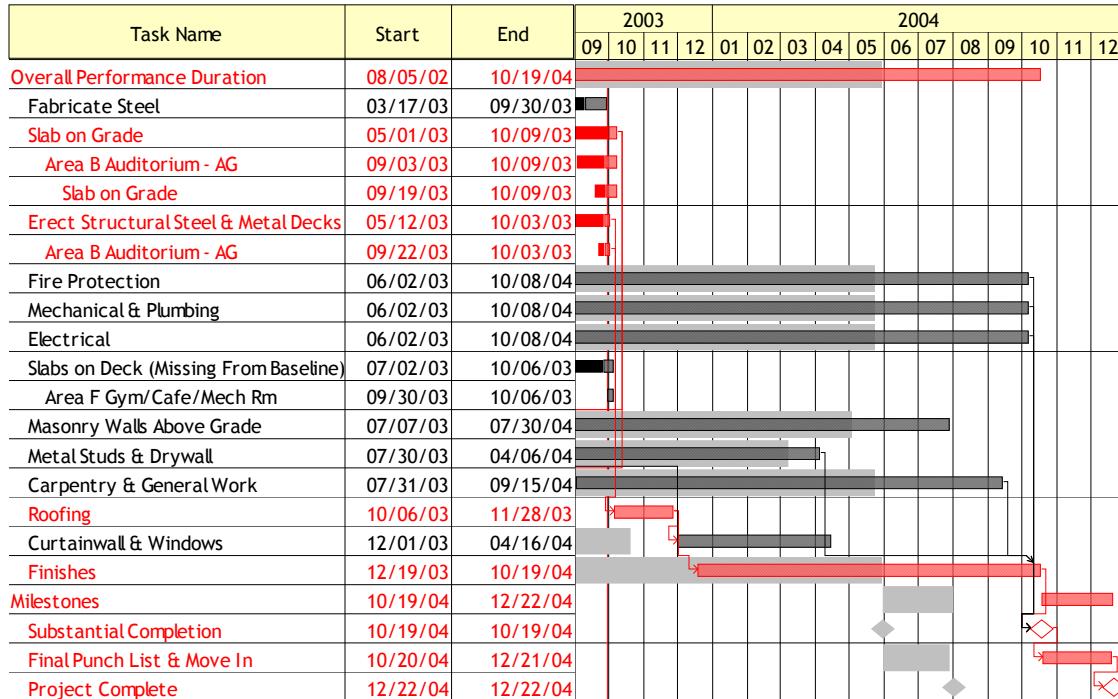
Additionally the planned roofing duration of two months will be grossly exceeded over the next nine months, due to among other issues the impact of adverse cold weather, further exacerbating any chance of McDaniel working in a water-tight building, critical for commencing water sensitive interior ductwork, insulation and equipment hang.

Finally, the baseline schedule anticipated commencement of mechanical rough four months prior to the placement of the roof thereby insuring that the majority of initial mechanical installations would be riser construction, carrier, hangars, rough piping and plumbing.

The roofer, like McDaniel, had been initially impacted by the late concrete and steel performance, but unlike McDaniel the roofer could have mobilized well before September 2003, but had chosen not to. The impact to McDaniel is working in an unprotected building due to an initial four month delays and later an additional seven months of unforeseen and extended performance.

As a result of the roofer’s choice not to mobilize effectively the roof is now on the project critical path and the substantial completion date (using a planned overall

performance of two months) has now been pushed to the 19th of October 2004, whereas the final completion would fall on the 22nd of December 2004.



Another impact to McDaniel's performance, aside from the lack of a roof, B building slab, and exterior enclosure throughout is the impact of EDiS failure to recognize the full impact of the delay and as a consequence the constructive acceleration, and corresponding chaotic performance engendered by this constructive abandonment of the management and scheduling effort. That impact, and ensuing chaos, as we will see results in out of sequence performance that further interferes with McDaniel contractually stipulated performance durations and sequences.

The first sign of the out of sequence performance, in contrast to simply delayed performance is the premature commencement of the mason in the building prior to initially planned mechanical rough install periods.

9/29/03 MPH DJR: "Brick layers are putting up block walls in our way."

The October 14th, 2003 project meeting references ongoing delays to the completion of building B steel:

Steel Erection

B: Murphy Steel started B on 9/22/03; However they encountered problems with long spans over the theatre. Murphy will be on site 10/15/03, to continue erection in Area B.

Additionally B Building concrete slabs continue to be in progress, this time in the Music and Art rooms, projected to be placed as of October 14th, 2003.

The final critical impact noted in this October 14th, 2003 meeting is remaining masonry that could impede CTA's roofing progress. To that extent "EDiS requests that Enterprise focus on completing any remaining work on the roof masonry so those areas can be completed by roofers."

Much in the vein of NDK before it, CTA has chosen not to attend prior project meetings, has not re mobilized the site, and is unequivocally delaying roofing in Areas A and E.

The McDaniel daily report of October 16th, 2003 notes:

"Is there anything or anyone delaying us: YES. Roofer & steel contractors. Also block layers."

10/28/03 CPM Meeting 29
Steel Erection

B: Erection complete, but roof decking is not complete
F: EDiS requested Murphy to complete misc items in F

"EDiS requested Enterprise focus on completing any remaining work on the roofs so those areas can be completed by the roofer."

"EDiS requested Enterprise Masonry complete exterior brick veneer in Areas C and the areas between C, D, E, and A as soon as possible, so these areas can be made watertight."

Roofing: CTA is working in Areas A, F
F Building: CTA will roof over mech, electrical and kitchen areas as soon as parapet Walls are complete.

Based on the aforementioned progress the October 30th, 2003 update of the baseline schedule generates an October 27th, 2004 substantial, and December 31st, 2004 final, completion (MP&H11.TLP).

Noting that McDaniel was terminated on October 11th, 2004 with the majority of systems in actual operation there is concern that the continued EDiS mantra of "ten weeks delay resulting from weather" is authored to obscure the real magnitude of the delay and those responsible.

Yet another concern is, had the IRSD been apprised by EDiS of the actual delay impact, earlier in the project, they would have better understood McDaniel's later

performance and the reasonableness of the dates being achieved, and therein a termination been averted.

Task Name	Start	End	2003				2004								
			10	11	12	01	02	03	04	05	06	07	08	09	10
Overall Performance Duration	08/05/02	10/27/04													
Slab on Grade	05/01/03	11/07/03													
Area B Auditorium - AG	09/03/03	11/07/03													
Slab on Grade	09/19/03	11/07/03													
Erect Structural Steel & Metal Decks	05/12/03	11/07/03													
Area B Auditorium - AG	09/22/03	11/07/03													
Fire Protection	06/02/03	10/08/04													
Mechanical & Plumbing	06/02/03	10/08/04													
Electrical	06/02/03	10/08/04													
Masonry Walls Above Grade	07/07/03	07/30/04													
Metal Studs & Drywall	07/30/03	04/06/04													
Carpentry & General Work	07/31/03	09/15/04													
Roofing	10/14/03	12/08/03													
Curtainwall & Windows	12/09/03	04/26/04													
Finishes	12/29/03	10/27/04													
Milestones	10/27/04	12/31/04													
Substantial Completion	10/27/04	10/27/04													
Final Punch List & Move In	10/28/04	12/30/04													
Project Complete	12/31/04	12/31/04													

On November 3rd, 2003 McDaniel's project superintendent, Roger Dill, continues to note the impact of accelerated masonry performance on his efforts to place overhead piping. Per the baseline contract schedule McDaniel should have commenced mechanical & plumbing upon commencement of the first slab pour.

Sadly, the mason also started upon completion of the slabs and did not allow McDaniel the planned period of offset (1/15/ - 4/9/03 approx 3 months) thereby actively interfering with McDaniel's performance resulting in substantive delays and labor overruns:

“Anything or anyone delaying us: Yes - Block layers”

No matter how hard McDaniel pushes the remaining performance period, they have lost substantive time between the completion of the steel decking (in that they worked off same to forward the project ahead of schedule) and this date.

Activity	Start	End	2003								2004						
			01	02	03	04	05	06	07	08	09	10	11	12	01	02	03
Slab on Grade	01/15/03	04/08/03															
Mechanical & Plumbing	01/15/03	05/25/04															
Erect Structural Steel & Metal Decks	02/26/03	05/06/03															
Masonry Walls Above Grade	04/09/03	05/04/04															
Roofing	05/07/03	07/01/03															

As a consequence of the mason's premature/accelerated commencement the time (originally between January 15th and April 9th, 2003) wherein mechanical could proceed without the imposition of wall construction is lost and cannot be regained. The loss of performance efficiency working around wall for largely vertical overhead installation cannot be understated and clearly further added to the critical delay impact.

This active interference will become more obvious in the coming months as labor overruns resulting from working in and around the constructive acceleration generated by EDiS/IRSD's management (that does not timely recognize equitable extensions in conjunction with prior unforeseen impacted performance). Ultimately these delays, working in unfavorable conditions, working out of sequence will result in the exhaustion of McDaniel's labor resources.

The following November 3rd, 2003 meeting minutes demonstrates that steel decking and slab on grade placement continue in B building. The EDiS schedule attached to the noted meeting minutes, oddly dated 9/18/03, references a completion of Mechanical rough in this final building on November 23rd, 2003.

The project actual performance dates tell us that the first slabs were placed in early June 2003, so for all intent the mechanical rough, per EDiS's request that same be concluded on the 23rd of November, is being required to be complete in six months.

The contract baseline schedule afforded sixteen months for the rough and finish mechanical sequences. Per the September 18th, 2003 schedule update the B finishes should complete approximately August 11th, 2004 with mechanical one week prior (Per baseline logic). Therefore the revised performance period, for mechanical overall, from June 9th, 2003 through August 4th, 2004, is fourteen months.

The feasibility of completing the mechanical, even in the reduced duration of fourteen months was highly dependent on the ability to achieve an enclosed structure, including structural steel, masonry, roofing and windows. Delays in any of these work scopes would not forestall the reported start dates, but would impact subsequent start dates in later buildings for the same activities. In summary the roof started in October, five months later than planned, starting in C, then A buildings. Initial progress was good, but as winter progressed the progress deteriorated rapidly generating later and later building enclosures that consequently impacted McDaniel's performance.

11/3/03 - Monthly Project Status Report for October 2003 - "THE PROJECT REMAINS 10 WEEKS BEHIND SCHEDULE DUE TO SEVERE WEATHER."

Area A

Interior metal studs & soffits ONGOING

Masonry walls ONGOING
 EPDM roofs is installed over the low area above media center

Area C

Interior metal studs COMPLETE
 Sprinkler rough-in COMPLETE
 VAV installation COMPLETE
 EPDM roof over classrooms and penthouse COMPLETE
 Window installation STARTED 10/28/03

Area D

Interior metals studs COMPLETE except for duct chase
 VAV installation ONGOING
 EPDM roof over classrooms and penthouse COMPLETE

Area E

Ext metal studs and sheathing 99% COMPLETE
 Interior metal studs COMPLETE except for duct chases

Area F

Ext CMU backup walls 75% COMPLETE
 Interior CMU walls along corridor and locker room ONGOING
 Mechanical, electrical and sprinkler work has STARTED
 Ext metal studs along cafeteria COMPLETE
 Mechanical equipment installation BEGUN
 Inst of electrical switchgear nearly COMPLETE

Area B

Steel erection COMPLETE
 Installation of metal decking is ONGOING
 Slabs-on-grade are 40% COMPLETE

The following excerpts from McDaniel's November Daily Reports demonstrate the frustration with not only delays, but the onset of Winter without exterior enclosure to afford working an acclimated environment.

11/4/03 - MPH DJR

"Is there anything or anyone delaying us? YES.
 If YES, with whom has this been discussed? Nobody - time is not on my side. NDK said he doesn't have time to wait for me to fix broken pipes underground. Concrete's coming."

11/6/03 - MPH DJR

"Is there anything or anyone delaying us? Block layers: need outside walls. Winter is coming. Also need to clean up job site in all areas."

11/11/03 - MPH DJR

Delays? "Roofer: need mechanical room, E wing, A wing complete ASAP. Winter is COMING FAST."

11/11/03 - CPMM #30

Concrete - NDK

B: Slab pour cancelled due to rain

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Structural Steel
 B: Roof decking not complete

Masonry
 EDIS: focus on roofs

Roofing
 CTA will roof over mechanical, electrical, kitchen as soon as parapet walls ready
 CTA will roof area E as soon as Enterprise and NDK are done.

Drywall
 F: Blocking on parapet walls must be NLT 11/14/03
 NDK needs to complete framing of penthouse F-302
 NDK needs to sheath roof framing on F-10 line

11/18/03 - MPH DJR

Delays: "Roofer not on job site. Mechanical room, kitchen & cafeteria, Area E need to be done ASAP."

11/25/03 - MPH DJR

Delays: "Roofer needs to be on the job site NOW."

11/26/03 - MPH DJR

Delay? "Roofing Contractors - BUT they are onsite TODAY."

12/2/03 - MPH DJR

No roofing contractor on site today.

As of November 30th, 2003 concrete in the B Building and subsequent roofing are driving critical performance.

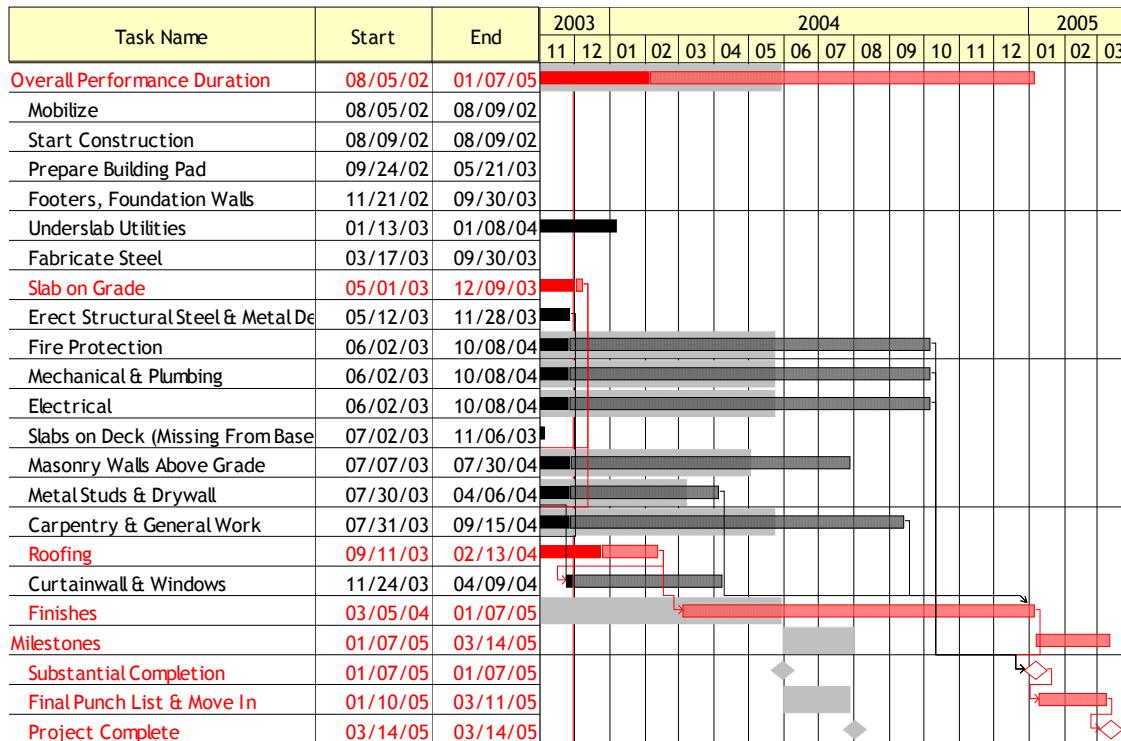
To clarify open roofing issues we have listed roofing status, in each building referenced in the schedule revision of December 1st, 2003, but note that the roof completion reference does not reflect open penthouse roof structures which are forestalling the bulk of mechanical rough and critically impacting McDaniel's performance.

Task Name	Start	End	2003								2004	
			05	06	07	08	09	10	11	12	01	02
Roofing	09/11/03	02/13/04										
Roofing C From 12/1 Schedule	09/11/03	10/07/03										
Roofing A From 12/1 Schedule	09/25/03	02/13/04										
Roofing D From 12/1 Schedule	10/02/03	10/13/03										
Roofing E From 12/1 Schedule	11/26/03	12/16/03										
Roofing F From 12/1 Schedule	11/26/03	01/02/04										
Roofing B From 12/1 Schedule	12/22/03	01/14/04										

Though it is likely that finish sequences will start prior to the planned completion of roofing in all areas, plus one month lag, as demonstrated in the baseline schedule, as

of November 25th, 2003 no drywall finishing has commenced, and given the lack of an operable heating system, and the onset of Winter weather it appears unlikely that finishes will start prior to early March as noted in the impact schedule.

If finishes are not commenced until March 2004, the impacted completion of the project would be January 17th 2005 substantial and March 14th, 2005 final completion, ultimately three and seven months after the date that McDaniel was supposedly terminated for failing to complete.

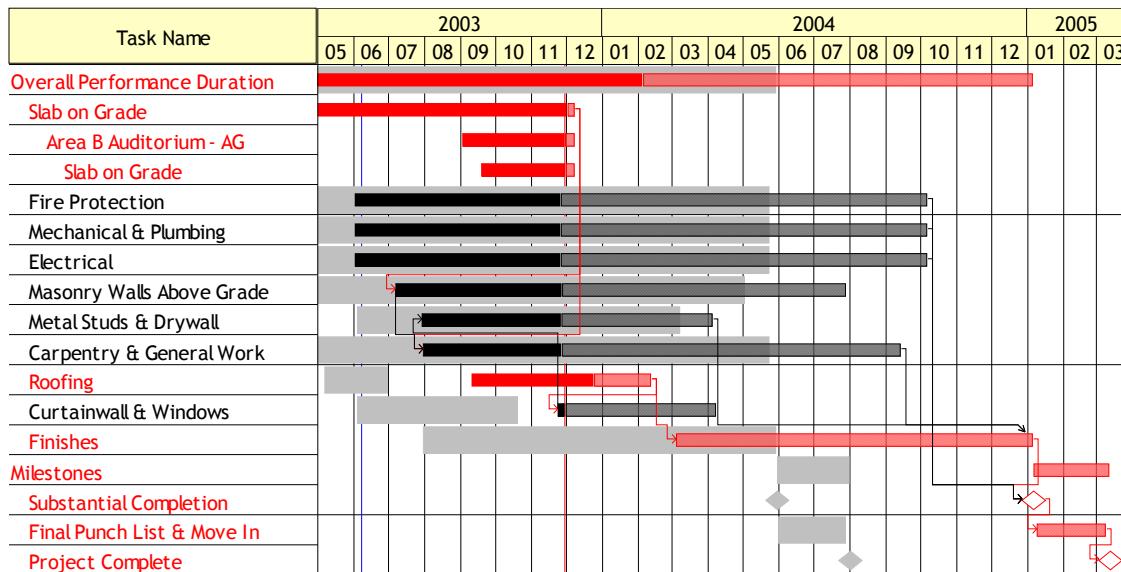


At this point in the narrative one has to question, given

- the failures in site work and building pad preparation, site access and erosion/water control
- the subsequent, defective and delinquent performance by the foundation contractor,
- the delayed commencement and increased durations generated steel and roofing contractors,
- the egregious delays to slabs on grade and deck placement,
- the subsequent, out of sequence, premature installations by the masonry and framing contractors,
- and the failure of EDiS to afford any enclosure or protection to combat late roofing and exterior masonry, in the second, unforeseen open winter

all prior to, or during McDaniel's work scope in all buildings, why an extension, well beyond August 2nd was not obvious to both EDiS and IRSD?

And when the timely extensions were not offered, how does McDaniel ultimately shoulder all of delay criticism/liability with this litany of failed administration?



12/9/03 - CPMM #32

Concrete

Theatre excavation is ongoing, no slabs poured

Masonry

- E ext walls
- F ext CMU walls
- F grouting remaining walls
- CMU dam proofing, weather permitting

Roofing

CTA not present at meeting

Drywall

EDIS: NDK needs to install wood blocking on Area F parapet ASAP

Drywall C & D

In the McDaniel daily reports of 12/15th, 16th, 23rd 2003 they reference delays by the roofer, while on the 29th through 31st of December 2003 McDaniel sets forth a second recurring theme, accelerated masonry performance:

12/29/03 - MPH DJR

Delay? "Roofers still not on job site". Bricklayers are working on Saturday, (Cannot keep up)

12/30/03 - MPH DJR

Delay? "Roofers & block layers"

12/31/03 - MPH DJR

Delay? "ROOFERS, AGAIN, AGAIN, STILL. Remember this date come AUGUST 4TH!!!"

These disconcerting notices, in conjunction with premature commencement of the masonry, delinquent roofing performance, with little progress to date, imminent winter weather, and the unwillingness of the roofer, CTA, to attend project meetings are the visible aspects of impacts to the project schedule that are interfering with efficient interior rough and finish construction sequences.

Throughout the Winter of 2003-2004, CTA was unable to roof the High School in a timely fashion, and as such critically impacted a number of MPH's activities. MPH's DJRs consistently give notice of the lack of a roof and the profound impact this is having on MPH's progress, specifically as noted in Dill's comment of January 7th:

McDaniel Daily Report Observations

Jan 1: Delay - roofers

Jan 2: Delay - roofers

Jan 5: Delay - roofers

Jan 6: Delay - roofers

Jan 7: "Roofers need to be on site and install their work. We cannot hang VAVs or insulate any piping in E A F B wings at this time."

Jan 8: "Roofer = add 6 months to completion"

Jan 10: "Roofers still not on jobsite. Winter is HERE."

Jan 12: "Roofers still - WHY?"

Feb 5: Project Milestones Reached Today: "Roofers are on job site 2 days in a row."

The Progress Meeting minutes also confirm the delay impact of no roof:

Jan 6 CTA not present at meeting

CTA must complete E NLT 1/8

CTA must complete F NLT 1/22

CTA needs to provide cap flashing on C, D, E ASAP to prevent rain from entering bldg

Jan 20 CTA not present at meeting

"McDaniel previously stated that the lack of roof in areas A B F and E is holding up ductwork installation."

CTA must complete F NLT 1/22

CTA must complete E detail work ASAP

Feb 3 CTA not present at meeting

C D E cap flashing still not done

E detail work not done

F roofing was supposed to be complete 1/22, still not done

Feb 10 A roof 90% complete

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Feb 17 CTA not present at meeting
C D E F cap flashing not done
F gyms and penthouse still not done

Mar 2 A complete
F aux gym not done

To develop a better understanding of the status of roofing, in late January we note that C, E and D area roofing has progressed, but flashing is incomplete. Area A roofing completed on March 2nd, 2004, but again without flashing, while F and B are in progress as of that March 2nd, 2004.

Given that roofing was to complete July 1st, 2003, and remains substantively incomplete as of March 2nd, eight months later, and in that the roofing drives interior finishes the only question, in computing the impact as of March 2nd 2003 is to what extent can initially rough, but more importantly finishes, in any building(s) under roof, commence prior to the completion of all roofing as represented in the contract schedule.

The second concern is, assuming there is a start of finishes prior to the completion of the entire roof structure, how does this further compress performance time already impacted by

- Delayed by concrete foundations
- Out of sequence slab pours to arising from further delinquent progress and the need to coordinate around out of sequence steel erection
- Further impacted by delinquent steel erection,
- Prematurely obstructed/segmented and impacted by premature masonry wall placement
- Hindered by delinquent enclosure, including roofing
- And now possibly being required to progress previously impacted rough installation concurrent with premature finish construction

The result of roof delays, and the mounting Winter weather, generated the following report comments:

1/6/04:Concrete

Theatre stage and penthouse B301 slabs NOT POURED

Steel

Murphy not present at meeting

A parapet wall steel NOT DONE

Masonry

B ext walls ongoing AS WEATHER PERMITS

F curtain wall masonry to be complete 1/7

Drywall

NDK must finish A parapet wall ASAP - it's holding up the roof
 Drywall going up in C and D

1/8/04 Executive meeting # 24: "Weather has impacted the progress of both projects" ...
 "The completion for Sussex Central is August 2004. EDiS reported that due to continued weather impacts, the final completion is currently shown to be mid-September 2004.

The majority of the bldg would be ready, however area B, Theatre, may not be ready."

1/9/04 Delay: Roofer in Area F & B
 1/10/04 Delay: "Roofers still not on jobsite. Winter is HERE."
 1/12/04 Delay: "Roofers still - WHY?"
 1/15/04 Delay: "No". Verbal instructions rec'd:
 "Keep my mouth shut and do my job."

1/20/04 Concrete NDK
 Still excavating excess material from theatre
 Still working towards installing slabs in B theatre and penthouse

Murphy Steel
 Not present @ meeting
 Still hasn't installed steel on A parapet wall
 Misc plates, beams and decking to be installed in B. Waiting on masonry to complete.

Enterprise Masonry
 CMU damp proofing on hold due to weather
 B ext walls as weather permits
 Enterprise: will work on A and F when weather does not permit work on ext walls.
 Enterprise: Should complete supporting wall for A curtain wall by 1/23
 Working on curve walls b/w D and E.

CTA Roofing
 Not present @ meeting
 EDIS: Need cap flashing in C D E
 EDIS: Need to complete E detail work ASAP
 EDIS: Need to complete roofing in F NLT 1/22

Drywall - NDK
 Framing A parapet wall
 C complete
 D ongoing
 EDIS: D must be ready for paint by 1/28
 EDIS: E must start by 1/26

Mechanical - McDaniel

"McDaniel previously stated that the lack of roof in areas A B F and E is holding up ductwork installation. EDiS state that ductwork shop drawings for A B and F have not been provided, so ductwork should not be fabricated."

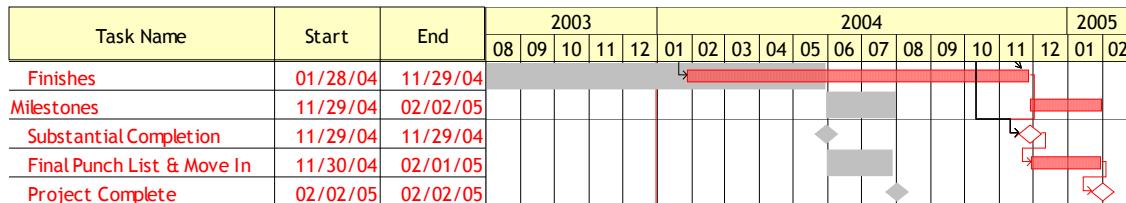
Therefore, at the close of January 2004 McDaniel is giving notice of the impact of not being able to install ductwork and interior HVAC equipment, due to the lack of roofing, in area A, B, E, and F, at that time seven months behind schedule. EDiS's response regarding the approval of duct shop drawings does no discount the efficacy of the delays arising due to the lack of a winter enclosure and their reasonable impact on the contract completion milestone.

As of January 2004, per the baseline schedule, McDaniel would have expended twelve of their contractually total sixteen month performance duration and despite this use of 75% of their performance time there still is no tight roof on C, D, E and F, no roof started on B building and the A building roof only recently completed (March 2nd, 2004).

Once again, the roof was to complete in all areas as of June 2003, now with seven months eclipsed the roofing remains incomplete. The concern is why EDiS is not notifying the IRSD of these substantive delays arising from concrete, steel erection and roofing performance, but shortly will assert that McDaniel is the sole impact to the project.

Despite these sizable roofing completion milestone slippages EDiS notes during the January 20th 2004 project meeting that they intend on progressing the drywall, in building D, to allow paint to start on or about January 29th, 2004, a net six month delay in commencement and with work only available in two of the six areas further delays would likely arise.

Even allowing EDiS this clearly premature date for commencement of finishes based on the level of incomplete roofing, the substantial and final completion milestones for the project would be November 29th, 2004 and February 2nd, 2005 respectively. Again, noting that McDaniel was terminated on the 11th of October 2004, after being stripped of the critical penthouse work, one and a half months prior to the impacted substantial completion, puts in question the propriety of the termination.



The February 3rd, 2003 project meeting minutes notes that, once again, CTA is unwilling to attend monthly meetings, as has been the case for the project to date, and that C, D, E and F roofs are not complete, nor is B Building, a seven month impact to the contract logic start of finishes as well as depriving McDaniel an environment to forward interior rough without concern for the protection of installations and attaining labor production.

Date	Doc	Comments
Feb 3	CPMM #36	<p>Enterprise Masonry</p> <p>EDIS requested completion of masonry above E low roof so roofing can be completed</p> <p>EDIS requested F CMU walls complete NLT 2/17</p> <p>Roofing CTA</p> <p>Not present for meeting</p> <p>F low roof over locker rooms complete</p> <p>C D E cap flashing still not done</p> <p>E detail work not done</p> <p>F roofing was supposed to be complete 1/22, still not done</p> <p>Drywall NDK</p> <p>A parapet wall done</p> <p>D ongoing - was supposed to be done 1/28, but new date is 2/5</p> <p>F operable partition not done</p> <p>E ongoing</p> <p>Penthouses: hanging has begun</p>

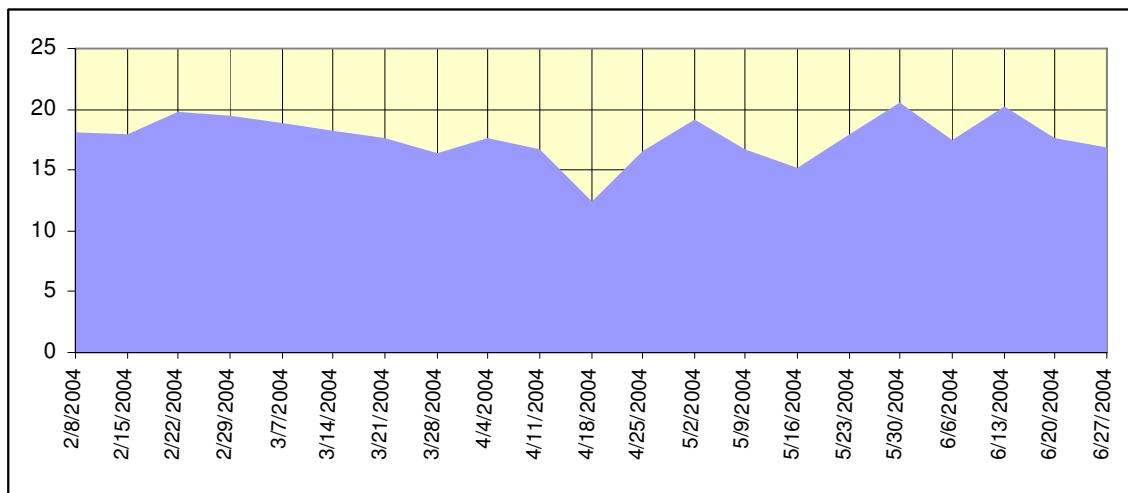
Despite a plethora of information, supporting a substantial completion on November 29th, 2003, and a final completion one month thereafter, on the 9th of February 2005 Weer continues to put forth a date that defies objective analysis.

Feb 9	B&GMM	“Mr. Weer shared the progress of the new Sussex Central High School with the committee. Drywall work is complete in Section C and D. Drywall has begun in E. Outside walls are complete on the cafeteria and auditorium sections. Mr. Weer expects this building to open in September.”
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The February 10th, 2004 Monthly Status Report notes outstanding roofing, in the A, C, D, and E Buildings while F and B buildings are still under steel erection and concrete placement sequences, all of which continue to delay mechanical installations, especially ductwork, insulation and equipment placement (VAVs).

As noted earlier, finishes have commenced as of January 28th, 2004, but only in two buildings, and well ahead of the contractual schedule logic.

The net impact of the premature finish sequence in buildings C and D is that McDaniel is being constructively accelerated to keep pace with premature progress in the C & D buildings thereby requiring inordinate resources, not required, or anticipated at the time of bid, to service the impacted schedule. The following plate reflects crew sizing from February 1st through June 27th, 2003.



At the same time the prior failed concrete, steel and roofing performance, in conjunction with the premature masonry erection, is depriving McDaniel of the ability to rough in and attempt to ameliorate this constructive acceleration, thereby aggravating the already limited remaining performance window. In each case it should be noted McDaniel accelerated to service the project needs.

Regrettably, in A, D, E, F and B buildings roofing, curtain-wall, exterior masonry sequences, or a combination of any, or all of same, are actively interfering with planned performance and generating a building by building progress strategy.

This type of disparate progress, requiring various levels of concurrent, but highly varied installation per location (Versus the contract schedule that set forth similar progress transpiring in all buildings), and generally working under a constructively compressed logic, further impacted McDaniel's performance resulting in labor inefficiencies.

The result can be seen in the February 25th daily report where every area of the project is simultaneously undergoing hydronic piping rough.

The February 10th project meeting references a twelve week delay to the project asserted by EDiS, but a 90% roof completion and the ongoing window and curtain wall progress reference a date far later for Building A. That the curtain wall was to have completed on October 21st, 2003 and continues, as of February 10th, 2004, in A Building would signal a completion of finishes seven months thereafter (Per the baseline) and then a two month punch, or a revised completion in November 2004.

Area B slabs continue to be delayed ten months after the baseline completion milestone for same.

Feb 10	Monthly Project Status Report	<p>“The overall completion date is 8 Sep 04. The project is 12 weeks behind schedule.”</p> <p>AREA A</p> <ul style="list-style-type: none"> Mechanical, electrical, sprinkler ONGOING 1st floor masonry walls 75% complete Curved curtain wall erection nearly complete VAV installation started Elevator is 75% complete EPDM lower roof 90% complete <p>AREA C</p> <ul style="list-style-type: none"> Piping and ductwork complete Drwyall complete Paint 98% Science casework nearly complete Grid ceiling nearly complete Inst of lights & plumbing fixtures ongoing <p>AREA D</p> <ul style="list-style-type: none"> Mechanical, electrical rough-in complete Drywall complete Paint ongoing Acoustical ceiling begun Light fixtures begun <p>AREA E</p> <ul style="list-style-type: none"> Mechanical, electrical rough-in nearly complete Brick veneer 90% EPDM complete except for cap flashing Drywall ongoing <p>AREA F</p> <ul style="list-style-type: none"> Ext CMU backup walls 99% (<i>as they were a month ago - LC</i>) Mechanical, electrical, sprinkler ongoing Installation of mechanical equipment ongoing Interior CMU walls nearly complete EPDM over lockers, kitchen, mech rm and training rm Inst of storefront windows in cafeteria ongoing <p>AREA B</p> <ul style="list-style-type: none"> Slabs-on-grade 75% complete Ext CMU wall 75%
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		Mechanical rough-in ongoing Theatre slab pour delayed by weather
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The February 7th, 2004 project meeting references the impact of acceleration on rough installation. As noted NDK was directed by EDiS to board out ductwork not placed as of February 19th, 2004. The bigger issues was, if you read the NDK planned progress for framing and drywall in section 37.3.9 is that NDK is progressing this scope

Due to delays of eleven months in completion of foundations, eight months in the completion of structural steel, near ten months in the completion of slabs on grade, and twelve months in roofing the framing and drywall is progressing towards a completion two to three months behind schedule by mounting premature and largely concurrent installations that results in acceleration of rough mechanical installations.

Despite the accelerated performance of framing and drywall the meeting also references that the soffits are largely incomplete and have real impact on mechanical rough installation.

Feb 17	CPMM #37	<p>Concrete NDK</p> <p>B theatre stage and penthouse poured 2/13</p> <p>Masonry Enterprise</p> <p>Damp proofing on hold</p> <p>Roofing CTA</p> <p>Not present for meeting</p> <p>Cap flashing still needed for C D E F</p> <p>F complete except for gyms and penthouse</p> <p>Drywall NDK</p> <p>D complete</p> <p>F operable partition not done</p> <p>E ongoing and must be done by 2/23</p> <p>EDiS required NDK to start framing soffits in ceilings in Areas A, C, D, E and F so other trades can proceed with their work. This work has not proceeded</p> <p>“NDK asked about the ductwork still remaining to be installed in the chase. EDIS directed NDK to close the duct chase on 2/19/04 if this duct is not yet installed.”</p> <p>Penthouses A C D E complete</p>
Feb 25	PTIR	<p>A 2nd Flr, Media Center A-200 Type L copper pipe.</p> <p>B Wing - Section 15181 - Hydronic piping.</p> <p>C Wing 1st Flr - Hydronic piping</p> <p>C Wind 2nd Flr - Hydronic piping</p> <p>D Wing 1st Flr - Hydronic piping</p> <p>D Wing 2nd Flr - Hydronic piping</p> <p>E Wing 1st Flr - Hydronic piping</p> <p>E Wing 2nd Flr - Hydronic piping</p> <p>F Wing - Hydronic piping</p>

The March 2nd, 2004 report notes the ongoing completion of exterior masonry and curtain wall in buildings B, D, E and A.

Additionally, incomplete roof systems in every building, and no roof at all in B is waylaying EDIS's effort to accelerate drywall to the extent where albeit the effort started months earlier, only E building has made any significant progress, and as noted construction of soffits is outstanding throughout.

Mar 2	CPMM 38	<p>Sitework Croll "On 1/20/04 EDIS requested AP Croll to provide a date when they will make the final connection of the force main to the Georgetown treatment plant."</p> <p>Concrete NDK Excavating theatre Forming locker bases in girls' locker room</p> <p>Steel Murphy Not present @ meeting Needs to complete B punch list</p> <p>Masonry Enterprise B ext walls D->E curvewall as weather permits. EDIS says hurry up A 1st floor south complete, now working on north side EDIS: complete E ext walls so we can complete windows and cap flashing Needs to cut holes for valve boxes in E stairwells.</p> <p>Roofing - CTA C D E F cap flashing not done A roof complete F roof complete except Aux Gym</p> <p>Drywall - NDK Needs to frame A operable partition E complete EDIS: Penthouses - be ready to install blocking as soon as panels arrive. EDIS: Start framing A C D E F ceiling soffits so other trades can proceed. Hanging drywall at top of walls in A and F EDIS: Start CMU wood blocking in B</p>
Mar 8	B&GMM	"All of the mechanical work is complete in A section...Mr. Weer expects the building to be ready to open in September."

Despite a premature start in July of 2003, and a planned completion of masonry May 2004, two months hence (Per project meeting 39 attached schedule), as of mid March Buildings B, D and E exterior masonry remain ongoing.

During the same meeting the roofer, CTA, once again is not in attendance, but has made progress from the prior meeting by the recent completion the auxiliary gym (F

Building). EDiS then notes that the theatre needs to start no later than March 22nd, 2004.

Referencing the baseline schedule the roof was to have been completed on all structures as of July 1st, 2003, whereas A building was completed as of the March 2nd, 2004 project meeting, F Building as of the March 16th, 2004 meeting and now EDiS expects the final area complete of as March 22nd, 2004. Clearly, even if this milestone is achieved the pace is slightly under nine months behind schedule.

Per the baseline schedule logic the finishes do not commence until approximately one month after the roof is complete. That the final roof will likely not complete in March, and given that the finishes commence in January, this premature (a minimum of three months) start of finishes is accelerating the project schedule.

Additionally EDiS noted that soffit construction has begun in C, D, E and F with only E C Building boarded and finished (Apparently aside form soffit structures).

Mar 16	CPMM 39	<p>Concrete - NDK Little movement - first pour done on theatre</p> <p>Steel - Murphy No movement. B roof cannot be complete until Murphy installs their closure pieces.</p> <p>Masonry - Enterprise Little movement B ext ongoing D-E curved wall ongoing A North complete EDIS: Gotta complete E ext walls</p> <p>Roofing - CTA Not present, no progress</p> <p>Drywall - NDK "A" operable partition need to be framed EDIS: Gotta start wood blocking the penthouses EDIS: Gotta start on A C D E F soffits</p> <p>Carpentry - Briggs Metal wall panels for penthouses A C D E F arrived 3/2</p>
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As of March 30th, 2004, five weeks prior to the planned completion of masonry, exterior masonry work continues in buildings B, D and E continuing to deny an enclosed structure.

The exterior masonry throughout the various buildings should have been one the first areas to progressed to avoid Winter impacts that have belabored McDaniel's performance, while the meeting also notes continued incomplete roofing.

That combination of delinquent roofing and premature, albeit delinquent, masonry conspired to force McDaniel rough installations into the depths of Winter without heat or protection thereby forestalling duct, equipment and insulation efforts.

Another item from the March 30th meeting it is notes that the B building slab pour will be complete April 7th, 2004. EDiS notes that this pour is necessary to allow contractor work in the theatre ceiling. Given that the slabs were to have been complete on April 8th, 2003, 364 days prior, this would intimate a substantive impact to the baseline schedule logic.

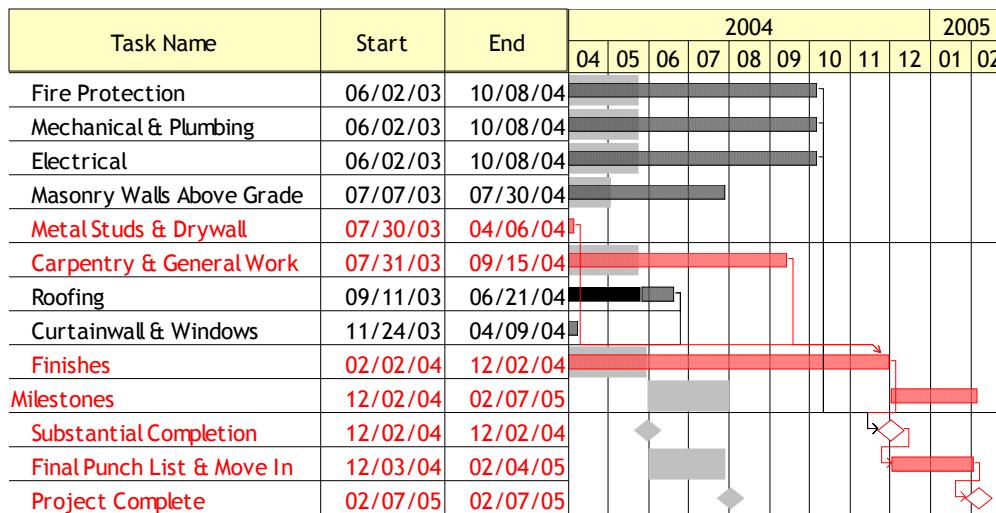
Finally, as of March 30th, 2004 meeting EDiS notes that Enterprise has completed the exterior masonry at B and has commenced interior installation, while the remaining E Building exterior walls are to be complete within the week.

Clearly the premature commencement of masonry walls, immediately after slabs on grade, and in the case of B Building prior to slab on grade, have allowed masonry to recoup much of their performance time, but largely at the expense of the contractors, such as McDaniel, who they actively interfered with as a result of their premature and accelerated performance.

Two weeks thereafter, on April 13th, 2004, the masonry continues in B, E and F, yet despite these delays, and the initial four month encroachment of premature masonry installation, McDaniel is keeping pace with overhead inspection and punch in the C, D and E buildings, but at substantial cost as noted in the project overrun, wherein McDaniel nearly doubled their labor expenditures to complete the majority of the project scope.

In fact, despite inordinate prior impacts by a wide group of contractors EDiS will continue to assert a twelve week impact, arising from weather.

Ultimately interior masonry walls complete in July, in B building, largely discounting any contractor's chance of substantially completing the project as of May 31st, 2004. That the roof in B Building wasn't complete until June 2004 also had an additional dilatory impact, but the key initial impact of the theatre slab on grade not starting until March 2004, fifteen months behind schedule, not McDaniel's perceived failings, as asserted by EDiS, generated this abysmal progress pace. The following plate reflects the baseline logic and durations with progress input as of April 2004:



Clearly the project critical path is being driven by the baseline duration afforded for finishes and subsequent punch list and move in using baseline durations starting in February 2004.

The schedule reporting technique, utilized by EDiS to date has generated bar charts that were not CPM reflections of progress, and generally erred on the side of discounting, or obfuscating, mounting delays. This inaccurate and largely optimistic reporting of schedule impact was regularly afforded to the IRSD.

That McDaniel will ultimately become the target, for delays to the project in May through August 2004, is due to the failure to apprise the owner of the mounting impacts, prior to McDaniel's critical performance, and the placement of the mechanical scope at the end of the project schedule in conjunction with the inability of repeated EDiS update schedule's prior, constructive logic compressions to ameliorate the lapsed performance.

Mar 30	CPMM 40	Steel - Murphy B is now mostly complete Masonry - Enterprise B ext CMU complete B interior walls ongoing D-E curved wall complete E ext walls ongoing Roofing - CTA Not present @ meeting Not done: cap flashing C D E F Complete: C D (?)
Apr 2	EDIS	Above ceiling inspection
Apr 2	Memo A&S > EDIS	Area E Above Ceiling inspection

Apr 2	Memo A&S > EDIS	Area C Above Ceiling Re inspection 3/31/04
Apr 2	Memo A&S > EDIS	Area D Above Ceiling Inspection
Apr 5	EDIS > All Contractors	1C Above Ceiling Punchlist
Apr 13	CPMM 41	<p>Masonry - Enterprise</p> <p>B ext CMU complete</p> <p>B interior walls ongoing</p> <p>E ext walls ongoing</p> <p>F brick veneer ongoing</p> <p>Roofing - CTA</p> <p>Not present @ meeting</p> <p>Not done: cap flashing C E F</p> <p>Not done: roof over entrance b/w gym and weight room</p> <p>Not done: roofing and gravel stop over penthouses</p> <p>Complete: C D (?)</p>

As of the April 27th project meeting Building B interior walls remain ongoing while roofing remaining issues are still not addressed in the majority of buildings.

Apr 27	CPMM 42	<p>Masonry - Enterprise</p> <p>B interior walls ongoing</p> <p>E ext walls complete</p> <p>Roofing - CTA</p> <p>Not present @ meeting</p> <p>Not done: cap flashing C E F</p> <p>Not done: roof over entrance b/w gym and weight room</p> <p>Not done: roofing and gravel stop over penthouses</p> <p>ASAP: Roofing in Area B</p> <p>ASAP: Roof over penthouse B301</p> <p>Complete: C D (?)</p>
May 3	EDIS > MPH	Partial Withholding of Payment Application #19
May 10	MPH > EDIS	Sussex Central High School Delay Issues
May 12	Monthly Project Status Report	<p>"The project is 14 weeks behind schedule."</p> <p>AREA A</p> <p>Mechanical, electrical ongoing</p> <p>Started: brick veneer</p> <p>Complete: Elevator</p> <p>Started: 2nd floor paint</p> <p>Complete: Paint of lobby</p> <p>Complete: Framing of admin area</p> <p>Ongoing: Drywall</p> <p>Started: Framing of shed roof over admin area</p> <p>Complete: Epoxy floors in bathrooms</p> <p>AREA C</p> <p>Complete: paint</p> <p>Complete: plastic casework</p>

		<p>Ongoing: technology installation Ongoing: cap flashing parapet Complete: installation of boards, computers Ongoing: VCT flooring, doors & hardware</p> <p>AREA D Complete: painting interior, plastic casework, cap flashing on parapet, metal wall panels in penthouse, marker board, workstations Ongoing: Doors & hardware</p> <p>AREA E Complete: Brick veneer, paint, casework, workstations, boards Ongoing: Doors & hardware</p> <p>AREA F Complete: paint in weight room, locker rooms, kitchen; pouring of concrete locker bases; kitchen hood; piping of chiller; epoxy floors in locker room bathrooms. Almost complete: mech & electrical; inst of mech rm eqpt Ongoing: paint in main gym</p> <p>AREA B Complete: slabs-on-grade; elevated slabs-on-grade; interior CMU in theatre; ext metal wall studs and sheathing; theater roof Ongoing: CMU wall except theater; mech, electrical, sprinkler rough-in; brick veneer Begun: roofing over classrooms</p>
May 11	CPMM 43	<p>Enterprise Is proceeding with interior walls in B, and brick veneer in A and B</p> <p>Roofing - CTA Not present @ meeting Not done: cap flashing C E F Not done: gravel stop over penthouses ASAP: Roofing in Area B ASAP: Roof over penthouse B301</p>
May 13	Exec Mtg Minutes 28	Still on schedule for Aug 04 move-in

As to the prior issue of EDiS reporting, as of May 13th, 2004 IRSD appears to be under the belief that there have been no impacts to the schedule that would forestall the final completion beyond August.

The second item of note is the May 17th, 2004 walk through of the mechanical penthouses, by Allen & Shariff, wherein they compliment the work being installed by McDaniel. These comments regarding what later is an area that is removed from McDaniel's contract due to among other issues supposedly inferior installation appear contradictory.

Note that the same outstanding thermostat, valve, gauge and flow meter installations are ultimately a part of the basis for removal of McDaniel from this area, but the early inclusion of these items and their status demonstrate that they could, in fact, be installed later in the project without adverse impact.

May 17	A&S > EDIS	Mechanical Room Preliminary Piping Inspection, Penthouse D Preliminary Piping Inspection. "Much work still needs to be done, and details such as thermometers, pressure gauges, vents, flow meter fittings, etc., still need to be installed. But McDaniel's crew is doing a nice job in the Mechanical Room and we assume will continue to do so until completion. "
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Jun 7	EDIS > MPH	Penthouse Piping Inspection
Jun 7	B&GMM	No mention of any delays. "Mr. Weer plans to have the administration area operational in early August."
Jun 14	MPH > EDIS	Request for meeting to discuss issues re starting up air conditioners
Jun 14	MPH > EDIS	Things other contractors have to do for MPH to complete work on chiller and AHU's

On June 21st, 2004, little more than a month prior to the original project substantial completion date, EDiS notes that the project was four months, or sixteen weeks, behind schedule noting that the theater will be complete on or about the middle of October 2004.

The B Building progress continues to be largely hindered by the lack of a complete roof structure only just completed as of June 21st, 2004.

Also noted in the meeting, concurrent interior and exterior masonry and MEP rough are progressing in B. That the baseline progress schedule referenced the masonry walls complete ten months after the completion of roofing demonstrates how late the roofing really is, and how accelerated the masonry performance has become to close and ultimately discount the roofing masonry gap. The concern is that masonry performance, so far ahead of scheduled logic, results in the compression of the available MEP rough and finish performance durations in later buildings.

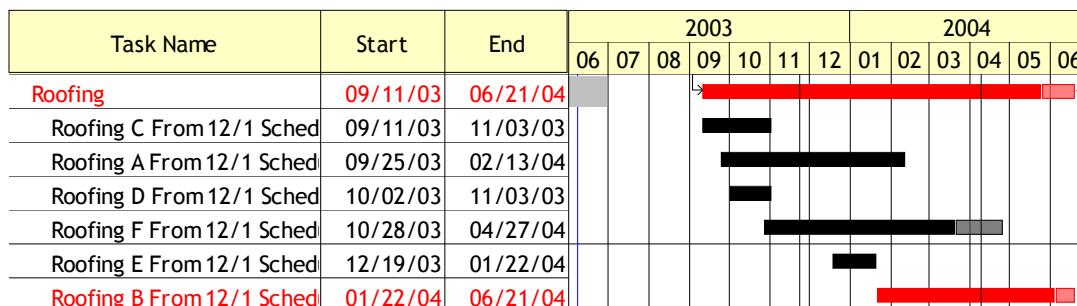
Jun 21	Monthly Project Status Report	"Areas C, D, E and F remain on schedule. Completion date for Area A has been adjusted to have the area completed by the end of July. Area B is behind schedule. The VO/AG and shops areas are expected to be complete by the end of September. The theater will be complete by the middle of October." "The overall project is 16 weeks behind schedule." AREA A Ongoing: Mechanical, electrical; interior brick veneer @ entrance; 2 nd floor paint; drywall.
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		<p>AREA C Complete: tech install; VCT floors in classrooms; classroom doors and hardware, ceiling tiles Ongoing: parapet cap flashing</p> <p>AREA D Complete: classroom doors & hardware; classroom VCT floors; technology; ceiling tiles Locker installation ongoing VAVs and AHU online</p> <p>AREA E Complete: classroom doors, hardware, flooring; ceiling tiles Ongoing: locker installation, technology</p> <p>AREA F Complete: Mechanical room equipment installation; paint in gym, aux gym and cafeteria; installation of kitchen and gym equipment Started: gym wood floor; chiller</p> <p>AREA B Complete: classroom roofing Ongoing: Interior CMU; mechanical, electrical, sprinkler rough-in; ext brick veneer; metal wall panels</p>
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Roofing and B Building Delays

As previously noted the aforementioned job meeting notes the completion of the B Building roof, but more importantly is the overall progress milestone achievements for this structure and roofing performance overall given EDiS's daily rebuke of McDaniel for supposedly driving the delay impacts.

The CTA roofing performance was seriously late and the unwillingness to attend project meetings, evidently allowed by EDiS, further exacerbated CTA's non performance. A comparison of their actual performance achievement demonstrates delays to critical performance late in the project, and especially McDaniel's ability to progress interior construction:



With McDaniel being admonished daily for their supposed role in delaying the contract, the B building is a prime example of delinquent work by a varied group of those contractors that in fact delayed prior performance and placed McDaniel, and ultimately the project, in this delinquent state as of June of 2004, approximately two months prior to planned substantial completion. The following performance monitoring, from a number of project meetings, outlines the failed concrete slab, masonry interior and exterior wall and roofing impact that affords a complete building shell on the 6th of July 2006.

Theatre Stage Slab	2/10: 0%	3/16: "Started"	
Ext Walls	2/10: 75%	3/1: 80%	4/13 100%
Interior Walls	3/1: "Started"	4/13: "Ongoing"	5/12: "Ongoing"
	7/6: "Ongoing"		
Slab-on-grade	1/8: 75%	2/10: 75%	3/1: 85%
	5/12: 100%		
Penthouse Equipment	3/1: Installed		
Roof	3/16: 0%	5/12: "Started"	6/21: Complete

Jun 28	A&S > EDIS	Area A Above-Ceiling Inspection on 6/25/2004
Jun 29	EDIS > MPH	Area A & F Above Ceiling Inspections
Jul 06	EDIS > MPH	Area C Above Ceiling Re-Inspection
Jul 06	CPMM 47	Masonry - Enterprise Ongoing: B Interior walls Roofing - CTA Ongoing: Cap Flashing C E F A Ongoing: Gravel stop penthouses C A F B Drywall - NDK Outstanding: A ceiling and soffits Ongoing: B Framing Ongoing: C D E punch list

As noted earlier, and in the July 12th building and grounds report, once the roofing was complete in the B building, in June of 2004, some eleven months behind schedule, McDaniel is immediately represented as the sole delay impact with no reference to delayed site work, concrete, steel, or roofing construction.

With the recent completion of the B Building roof, masonry performance is still driving this building, and on the 20th of July EDiS notes the contract is 18 months behind schedule.

By July 20th 2004 meeting little more than a week to the original contract completion and near two months beyond the substantial completion, and mechanical is under pressure to work all areas simultaneously, contrary to the baseline schedule logic.

EDiS notes the contract is eighteen weeks behind the schedule, resulting in a substantial completion in mid October 2004, and a final completion in mid December.

Jul 20	Monthly Project Status Report	<p>SCHEDULE REPORT</p> <p>“Areas C D E and F remain on schedule...B is behind schedule. The Mechanical Contractor has been advised that they must focus on the completion of work in the other areas of the building. We are still concerned about the Mechanical Contractors ability to complete the work in all other areas and still be able to work in area B.</p> <p>The overall project is 18 weeks behind schedule.”</p>
Jul 24	EDIS > MPH	Areas A & F Above Ceiling Plumbing Follow-Up Inspection
Jul 27	RLI > EDIS	Release no further funds on this contract w/o our OK
Jul 27	CPMM 50	<p>Masonry - Enterprise</p> <p>Ongoing: B interior walls</p> <p>Roofing - CTA</p> <p>Ongoing: Cap Flashing C E F A</p> <p>Ongoing: Gravel stop penthouses C A F B</p> <p>Drywall - NDK</p> <p>Ongoing: B Framing</p> <p>Ongoing: C D E punch list</p>
Aug 2	EDIS > MPH	Areas C D E final punch lists

In August punch list processing continues, while on the 9th of August, during the building and grounds meeting, it is noted that the advanced state of the HVAC systems (“The HVAC system is operational”), despite significant prior delays to the project. Yet Dwyer of EDiS continues to assert to the IRSD that McDaniel has caused the progress to fall behind schedule.

What is of value in Dwyer’s comments is that McDaniel is bringing conditioned air systems on line and they will in fact be operational prior to the commencement of school, confirmed by the fact that school does open despite delays ranging up to twelve months (Concrete Slab Placement).

With such sizable delays prior to McDaniel’s rough and finish sequences and ultimately McDaniel bringing the key aspects of the system on line in time to mitigate much of these critical impacts, what was the basis of termination?

Croll, NDK, Murphy and CTA ultimately delayed the project for months in their performance of each of their respective scopes, yet none were made to reclaim their schedule dates.

As for masonry, Enterprise largely held their performance durations, albeit offset three months by delay, but only by prematurely starting installations to the disadvantage of McDaniel and in conflict with the schedule. As a result of these prior, critical contractor’s efforts, or lack of same, ultimately McDaniel worked to

egregiously impacted rough performance duration, and truncated finishes duration to bring the system on line, for the benefit of the finish contractors and the building occupants, only to later be terminated.

Aug 9	B&GMM	<p>"The HVAC system is operational, and the automatic temperature control system is being installed throughout the building. Mr. Ted Dwyer of EDiS explained how the mechanical contractor has caused the progress of the building to fall behind schedule. He also assured the committee that the majority of the building will be usable when the school year begins."</p>
Aug 11	EDIS > MPH	Boiler inspections and Certifications
Aug 18	Monthly Project Status Report - July	<p>AREA A</p> <p>Complete</p> <p>Mechanical & electrical</p> <p>Ceiling grid and tile</p> <p>Doors & hardware</p> <p>Ongoing</p> <p>Flooring around admin area</p> <p>Setup of headed room</p> <p>Toilet partitions and accessories</p> <p>Fire alarm system online and admin area occupied</p> <p>AREA C</p> <p>Punch list</p> <p>Locker room installation</p> <p>AREA D</p> <p>Ongoing: punch list, locker install, corridor VCT</p> <p>AREA E</p> <p>Ongoing: classroom punch list, corridor VCT, locker install</p> <p>AREA F</p> <p>Ongoing: paint lines on gym floor</p> <p>Lockers complete</p> <p>Bleacher install complete</p> <p>Domestic water heater online</p> <p>AREA B</p> <p>Nearly complete: piping & insult in Art/Music/JROTC</p> <p>Ongoing: mech, electrical, sprinkler</p> <p>Complete: Interior CMU</p> <p>Complete: curtain wall, storefront</p> <p>Nearly complete: windows</p> <p>Complete: framing, drywall of Art/Music/JROTC</p> <p>Started: Theatrical rigging</p> <p>SCHEDULE REPORT</p> <p>"Area B is behind schedule. The Mechanical Contractor has been advised that they must focus on the completion of work in other areas of the building. We are still concerned about the Mechanical Contractors ability to complete the work in all other areas and still be able to work in Area B. Even though other contractors are</p>

		<p>making progress in area B, we expect that the music, choral, art and JROTC rooms may not be complete until the middle of October."</p> <p>The overall project is 18 weeks behind schedule."</p>
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This most recent observation by Dwyer that McDaniel is responsible for delays that, now amounting to eighteen weeks, conflicts with the prior status afforded by EDiS.

Specifically, at the start of 2004, the overall project was supposedly 12 months behind schedule by EDiS' analysis and wholly due to weather (Monthly progress report December 2003).

This fact is echoed in the School Board's Executive Committee meeting, held at the same time, wherein EDiS stipulated that weather had impacted the project. No other problems or delays are mentioned, and there is no indication of any problems with any other contractors.

This general view of performance holds for the first six months of 2004. In the Executive Committee Meetings, the Buildings & Grounds Committee Meetings and the Monthly Project Status Reports wherein EDiS re affirms that the project is on schedule.

And despite the catastrophe that is B Wing, and CTA's inability to keep the rain out of the buildings per the baseline schedule dates, and the fact that the project overall is 12 - 16 weeks late, McDaniel keeps up a steady drumbeat of progress.

An example is the March 16th 2004 Progress Meeting which lists McDaniel as completing all insulation in E, completing the concrete pad in the mechanical yard, completing setting the return fans in A, B, C and D penthouses, completing exposed round duct in A, setting Girds in C and D, and ongoing work in the boiler room with no reference to progress failings.

If only to re affirm McDaniel's progress as of May 2004, on May 17th Allen and Sheriff stated to EDiS:

"Much work still needs to be done, and details such as thermometers, pressure gauges, vents, flow meter fittings, etc., still need to be installed. But McDaniel's crew is doing a nice job in the Mechanical Room and we assume will continue to do so until completion."

The initial hint of trouble comes in the May 25th 2004 Progress Meeting where EDiS expresses its concern that McDaniel cannot get all its work done in time for school opening.

Yet the same minutes show McDaniel steadily progressing through its list: valves and controls for gas control panels are complete, as is the aluminum duct in the bathrooms and the chiller piping.

Additionally, despite prior unilateral EDiS acknowledgment of between twelve and eighteen months of delay (By impacts other than McDaniel) EDiS' concern is predicated on the original August date. In essence EDiS is not recognizing the delays that it has cited have occurred in their analysis of impact.

In early June McDaniel keeps moving to completing critical performance milestones, including the piping of the boiler room, D and E building AHU's on June 8th, and completing the piping of A and C penthouses on June 22nd. Though these areas will come under later review for alternate piping and duct layout, they are in fact in operation and afford the school a certificate of occupancy well before the appropriate impacted completion date.

The June 21st 2004 Monthly Project Status Report reports that project performance is still on course, although the overall project delay has grown from 12 to 16 weeks.

At the beginning of July, McDaniel brings the A, C, D, and E AHUs online (July 6th, 2004 progress meeting # 47).

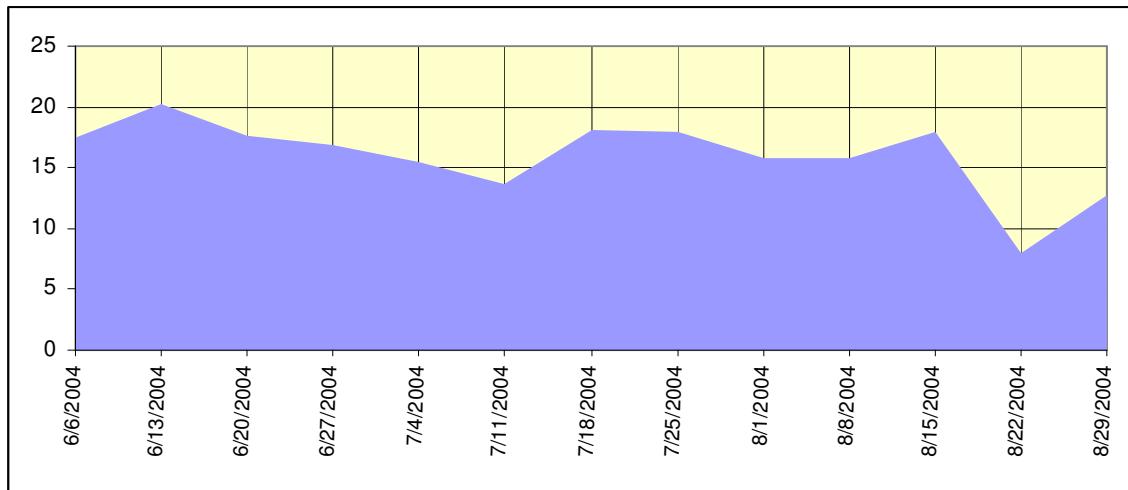
When concerns about McDaniel finally appear outside the Progress Meetings, they are related to the B wing. The July 12th Buildings & Grounds Meeting says that "progress has slowed in B wing due to problems with the mechanical contractor." Dwyer's concern is that McDaniel cannot progress the belated B Building and keep progress on the remainder of areas (EDiS report 8/18/04).

In fact, up till July of 2004, the outline that EDiS is reporting to the IRSD is that the project has been delayed 12 - 16 months because of weather delays, but this is to be expected due to experienced conditions.

As a result of these impact EDiS notes that the school will open, with the possible exception of B Wing, which is a problem since that is the wing that contains the gym and the cafeteria. But up until July, there's no mention of any problem with McDaniel, while the above captioned August 18th, 2004 meeting notes that McDaniel is in the punch stages in buildings A, C, D and E with F and B ongoing. Clearly the reported delays in B excuse McDaniel from this belabored buildings failure and F is well on the way to punch.

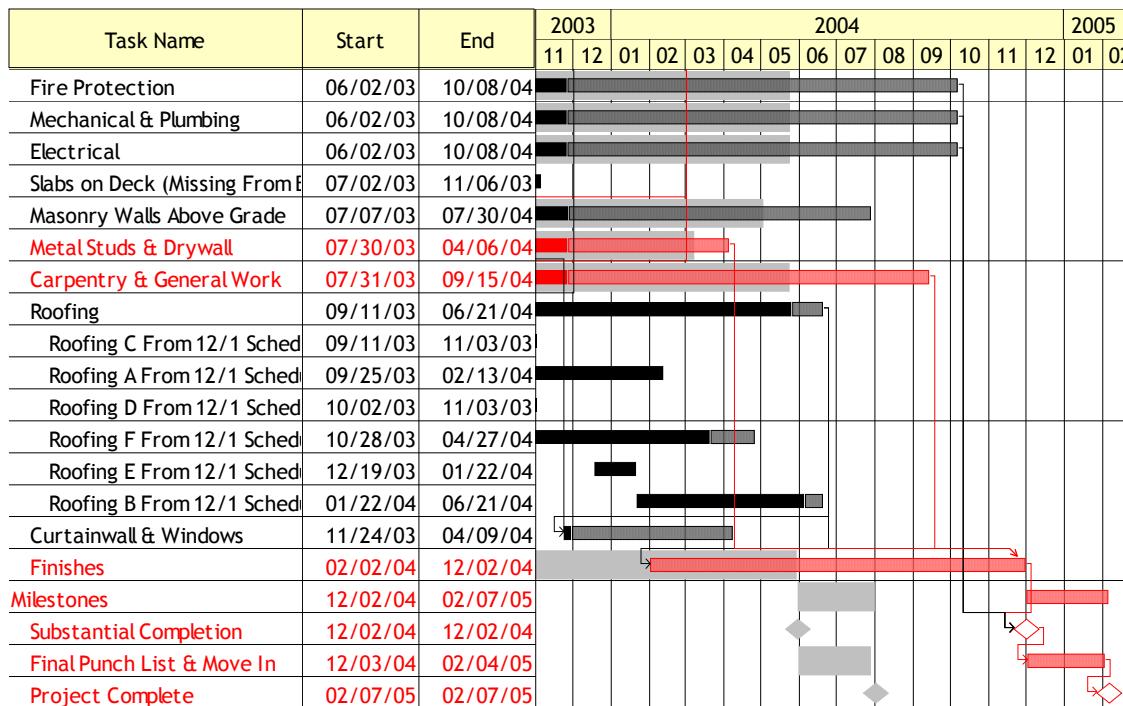
It is imperative to note that the biweekly construction progress meetings approach remaining work in greater detail. Here the impact of initial delays and subsequent accelerated/compressed performance, on McDaniel's progress, are more apparent, clearly referencing that McDaniel is struggling in their attempt to complete all

mechanical per the un impacted performance dates, especially at the penthouses, given the unwillingness to extend the schedule the aforementioned sixteen weeks (September 30th, 2004 substantial, November 30th, 2004 final at a minimum) noted by EDiS. But it's also clear, from these meetings, that McDaniel is making steady progress throughout the buildings. Throughout this period McDaniel's crew size remains constant at 15 - 20 men.



In July, relationships start to deteriorate between McDaniel and the management team. At the beginning of the month, McDaniel's name starts appearing in the Building & Grounds and the Monthly Project Status Report, but only mentioned as a delay to the completion of B Building - and there is no mention of the penthouse concerns, as there is no recognition of the aforementioned 12-16 weeks delay and corresponding equitable extension.

In fact, McDaniel has brought the majority of the AHU's online at the beginning of July, and making steady progress on punch lists in various buildings while vastly improving on production dates generated by PCM's schedule impact analysis that would have the project final completion in February rather than EDiS attempt for August for all except the B Building.



A key turning point in the relationship between McDaniel and EDiS occurs on July 27th when RLI, McDaniel's surety, informs the IRSD that they should not issue any further monies to McDaniel without RLI's prior approval. With this letter, EDiS abandons its usual prior, informal style and moves with uncharacteristic determination and swiftness.

Consequently relationships deteriorate rapidly subsequent to RLI's July 27th 2004. Starting from this July 27th, 2004 date EDiS starts inundating McDaniel with notices of failed performance, but, again, based on a criterion founded in an un-impacted schedule that largely has no allowance for significant delays by parties other than McDaniels.

Had EDiS and the IRSD afforded an equitable adjustment to the contract the students would likely not have had the building until 2005, but conversely this would have allowed McDaniel the contractually mandated time to complete the project in line with the contractual durations and sequencing.

The second concern (aside from Delay) brought to fore by the engineer Allen & Shariff, and EDiS is the quality of installations, and especially McDaniel noted deviation from design, this, along with chaotic supervision/management, all result from EDiS's constructive acceleration of McDaniel's performance to achieve a date that is not supported by our current schedule impact analysis.

From the July 27th RLI letter of payment notice it was only thirty days later that Zimmer had supplanted McDaniel in the mechanical penthouses.

Noting a minimum twelve week weather impact asserted by EDiS the final completion should be represented as November 2nd of 2002. Therefore with two months remaining until final completion Zimmer is brought in to subsidize McDaniel's performance.

Using PCM's analysis and the final completion of February 7th, 2005 Zimmer was brought in five months prior to the final completion and three months prior to the substantial completion.

Despite an in depth review of afforded documentation we are unable to determine who came up with the idea of removing McDaniel from the penthouses, or who suggested that Zimmer take same over.

We are unable to determine how the initial purchase order to Zimmer was estimated, or who allowed Zimmer to dismantle the penthouses without pricing the repair essentially leaving the school vulnerable to this T &M request.

It appears the choice to use Zimmer to accelerate the contract is either privileged, or not available during discovery, and the first time the documents mention anything regarding Zimmer's involvement is on August 20th, 2004 when A&S faxes to Zimmer the Above Ceiling Inspection reports.

Like any apprehensive situation, it only took weeks to move from inception to conclusion. On August 27th, only a month after RLI's letter, EDiS directs McDaniel that they've been evicted from the penthouses, but that McDaniel is to continue working on all other contract work.

Three days later, on August 30th, 2004, three months prior to the MPH impacted substantial completion date (12/2/04), and five months prior to the critical path impact to final completion (2/7/05) (accounting for an early, but largely ineffective, start of finishes) established by PCM/McDaniel, EDiS confides to the IRSD that Zimmer is ready to take over A, C, D, E and F penthouses and that each penthouse has several days worth of work to get them completed.

On August 31st, A&S and Zimmer tour the penthouses to review outstanding work. On September 8th the IRSD gives Zimmer official notice that it is now responsible for the penthouses. Attached to the notice was a list of work items to be accomplished, but no dollar figure - the letter says that Zimmer will issue a purchase order for the amount.

From the project documentation it remains difficult to ascertain whether the IRSD was actively involved in EDiS impact analysis, or the decision making process that

ultimately resulted in McDaniel's supplementation and finally termination was analyzed and presented by EDiS alone.

In that the IRSD's legal counsel

- directed them to not contract directly with Zimmer without McDaniel's consent
- argues that RLI's position regarding overpayment to McDaniel by EDiS/Becker Morgan has prejudiced remuneration.

It remains difficult to understand why the IRSD in fact took these actions in light of counsel recommendation and the clear progress being achieved at site despite significant impacts and delays.

What benefit did the IRSD gain by removing McDaniel from the project altogether at a time when Zimmer was working in the penthouses and McDaniel in the various structures? Even as late as the November 18th, 2004 meeting, wherein the superintendent states to EDiS "You kept telling us he was doing a good job and he wasn't." would imply that IRSD was functioning solely on the recommendations and reporting of EDiS.

In the end it would appear that the decision to remove McDaniel, from the penthouse and Building F mechanical, arose from the embarrassment of not previously adjusting the schedule for gross delay and active interference impacts arising from the belated performance of the concrete, steel, framing, and roofing contractors, and the out of sequence performance by the masonry and interior finishes contractors.

The effort to remove McDaniel from the project, altogether, may also arise from RLI's unwillingness to supplement McDaniel and therein fund the recovery schedule that EDiS was requiring in their recent schedule updates which recognize the IRSD's demand for a building to open five months ahead of the impacted schedule, without any cost allowance for accelerated performance.

Prior to Zimmer's introduction there was a significant amount of penthouse piping, valves and fittings to place, cut in, or revise, but the effort expended by McDaniel as a result of schedule acceleration and compression, was to get the units operational despite months of un recognized impact that would have afforded substantively more time to allow finish construction amidst controlled air.

Prior to Zimmer's involvement the rooftop AHU's, outside of the delayed F and B Buildings were complete. Both boilers had been set and pipe, and one of the two boilers was brought on line in September of 2004 (The second boiler required a pump replacement). The gas piping in F, to bring the boiler on line was reported complete by Zimmer in the September project schedule update

As for the B Building that had a roof complete in June, and exterior walls complete in July, as of September exposed ductwork is substantially complete while concealed duct installation ongoing, piping and insulation is 98% complete. Clearly, except for Building B, the mechanical performance in the remainder of the buildings, per EDiS September monthly report, is in the punch stage.

The September 8th - 14th 2004 Updated Construction Sequencing notes that McDaniel needs to complete above ceiling punch lists in Buildings A through F with all other open work, aside from balancing, in Building B.

The handwritten September 13th, 2004 executive meeting attended by Savage, Headman, Miller and Weer notes that Zimmer Mechanical will start next week and that McDaniel only has \$300,000 left in its contract.

While EDiS/IRSD positioned Zimer to supplement McDaniel's effort to bring the penthouses, boilers, and overall mechanical systems on line, while simultaneously administering to punch lists in August, September and, in a more limited role in October, and progressing the more belated performance dates in F & B Buildings, all to afford occupancy months prior to the impacted performance requirements, met with an illogical response from EDiS/IRSD.

The response was the introduction of Zimmer to supplement the penthouse construction as of August 27th, and a notice of the owner consideration of terminating the contract on the 8th of September 2004.

These two actions, in concert with the management team's unwillingness to recognize prior delay and active interferences, and the impact they had on McDaniel's finances, would stop any further distribution of remaining funds and consequently resulted in McDaniel's ten man crew, as of early September, dropping to an average five man crew.

Clearly Zimmer's immediate actions in the Penthouse to dismantle all the mechanical rooms, and subsequently increase the scope and cost to complete the penthouse demonstrated EDiS's continued difficulty in effectively managing the project.

On October 11th, 2004 Becker & Morgan recommended termination of McDaniel Plumbing & Heating predicated on their failure to staff the project with adequate labor and materials, the failure to pay vendors and the, poor workmanship and lack of shop drawings. It appears the Becker Morgan did not consider the impacts of delays by prior contractors that impacted McDaniel's overall performance.

The termination is even more of a concern I that at this juncture Zimmer was in fact in the penthouses and the F Mechanical room since early September, not McDaniel, and the penthouses are, like Building B and the outstanding punch items on the

project critical path. Clearly, in that McDaniel had already been subsidized in an effort to accelerate performance they were responsible for a far smaller project scope, and were progressing same prior to the threat of termination had adverse impact on their finances.

During their short period of co existence McDaniel had no overview of Zimmer's efforts, and the scope of work, or better said the engineer and Zimmer's interpretation of this scope, would drive the contract critical path along with the completion of B Building, neither of which was under McDaniel's control.

The simple fact that the management team was unwilling to implement an equitable adjustment to the contract to afford more time, that ultimately would alienate the owner, but relieve much of the impact incurred by McDaniel demonstrates the mindset that resulted in this termination.

In summary had EDiS been willing to

- equitably extend the contract for impacts in excess of five months
- mandated performance to baseline milestone constraints for
 - site workfoundations
 - steel erection
 - slab placement
 - roofing
 - masonry
- fend off other contractors working out of sequence (Early masonry, Early finishes)
- afforded an enclosed working area (2nd winter in unanticipated open buildings.
- helped avert building progress as much as twelve months late prior to McDaniel involvement

McDaniel could have averted the termination, and the building would have been competed in early 2005, possibly late 2004, including any needed repairs or supplementary contract documentation if EDiS/IRSD had simply recognized the delays referenced throughout the project issued timely extensions and helped mitigate labor losses by controlling progress sequences.

What EDiS/IRSD in fact did was ignore the delay impacts, not police delinquent performance by others, constructively accelerate/compress follow up mechanical sequences requiring work in adverse conditions, and then terminate a contractor, McDaniel, who had been burdened with the majority of the aforementioned impacts.

The following pages set forth our estimate of material and labor overruns arising from the impacts and subsequent acceleration noted in this narrative.

McDANIEL EXPENSES ARISING FROM DELAY AND ACTIVE INTERFERENCES

The following are McDaniel's cost/estimated expenses arising from delays and/or active interferences with McDaniel's contract:

McDaniel Plumbing & Heating - Sussex Central High School		Duration -
Extended Home Office Administrative Expense		Apportioned
 Start Date (NTP)	8/28/2002	
Original Contract Substantial Completion Date	5/31/2004	642
Actual Contract Termination Date	11/14/2004	167
Entire Calendar Day Duration		809
 McDaniel Sales for Performance Period		
2002 & 2003 - 2003 Gross Sales of 6,491,495.40		
Apportioned for 2002 (8/28 - 12/31/03) & 2003	\$6,491,495	\$8,714,610
2004 Gross Sales 4,588,639.37	\$4,588,639	\$3,997,773
2005 Gross Sales 4,604,611.64	\$5,566,133	
Total Sales for the Performance Period	\$16,646,268	\$12,712,384
Total Sales Sussex Central High School		\$3,000,130
Sussex Central High School Percentage of Overall Sales Performance Period		23.60%
 McDaniel General & Administrative Expense for Performance Period		
2003 Administrative Expense Apportioned for 2002 & 2003	\$79,775	\$107,095
2003 Overhead Expense	\$941,896	\$1,264,463
2004 Administrative Expense	\$682,554	\$594,664
2004 Overhead Expense	\$27,683	\$24,118
Total General & Administrative Expense for the Overall Performance Period		\$1,990,340
General & Administrative Expense Apportioned For Sussex Central High		\$469,721
Per Diem Apportioned General & Administrative Expense		\$581
Total Extended General & Administrative Expense		\$96,963

McDaniel Plumbing & Heating - Sussex Central High School

Site Office Administrative Expense

	Base Rate + 22% MPH Contributions	Indirect Supervision	Per Cal Diem Value
Indirect Project Foremen Involvement			
Piping Roger Dill or other 75% Indirect	40.26	241.56	172.54
Sheet metal Matt Fagan or other 50%			
Indirect	30.71	122.83	87.74
(2) Project Vehicles 3/4 Ton 2 Whl Drive			
MCAA Pg 47			93.53
(3) Telephone & Cell Phone Services	80		8.00
(3) Gasoline Allowance @ \$400 per Month			
per Vehicle	433		43.33
Safety Meetings 1 hour each Week			286.93
Access, Cleanup & Material Handling at 1			
man per work day at an achieved rate of			
34.0581			194.62
Small Tooling @ .5% of Contract Value (R S			
Means)			18.54
Large Tooling (See Worksheet Below)			66.64
Sub Total			971.87
Sub Total for Delay Period August 6th, 2004			
Through October 24th, 2004 - 79 calendar			
days			76778
(2) Project Office Trailer AP (\$9982.21+			
\$781.25 Prorated)			2800
Extended & Impacted Backhoe Expense			19562
Total Site Office Direct Supervision			
Expense			99140

TOOLS

Tooling - MCAA Ownership & Operating Expenses - Monthly Rate Divided by 30 Calendar Days	Qty	Pg #	Monthly	Qty x Monthly Divided by 30 Cal Days
Acid Pipe Fusion Machines				0.00
Aerial Lift, Scissor, Self Propelled, Electric	19		869.6	0.00
Air Compressors	1		124.96	0.00
Air Conditioner	25		84.4	1.00
Air Ducts 8"x8"x10"				0.00
Assorted 1/2" - 1" Conduit Benders	3		110.34	0.00
Cable Cutters	3		14.7	0.00
Calculator	25		27.16	0.00
Chain Hoists 1 Ton	4	15	25.8	3.44
Chain Vice Up to 6"		38	13.55	0.00

Sussex-McDaniel P&H	Page No. 78
Chipping Hammer	2 85.78 0.00
Chop Saw - Hand Held Electric 14"	2 33 238.3 15.89
Come Alongs 1/4 Ton	0.00
Come Alongs 3/4 Ton	4 15 38.7 5.16
Copper Cleaning Machine	6 95.81 0.00
Cordless 18V 1/2" Variable Speed Drill	7 3 79.2 18.48
Core Machine Bits 3"	8 123.75 0.00
Core Machine Bits 4"	8 153.75 0.00
Core Machine Bits 5"	8 164 0.00
Core Machine Bits 6"	8 193.9 0.00
Core Machines	1 8 450.25 15.01
Desk & Chair	25 28.94 0.00
Die Heads 1" - 2"	2 27 42.75 2.85
Drill 1/2" Variable Speed	2 8 72.15 4.81
Drill 3/8 Variable Speed	8 66.88 0.00
Fans 8"	0.00
File Cabinets	25 29.65 0.00
Fire Extinguisher	31 26.65 0.00
First Aid Kit	31 15.6 0.00
Storage Bin 4'x6'	0.00
Gang Boxes	12 48.9 0.00
Spot Welders 225 Amp	49 553.8 0.00
Hammer Drill Rotary 2"	9 320.2 0.00
Hammer Drill Rotary 3/4"	9 134.2 0.00
Hammer Drill Rotary 7/8"	9 175.2 0.00
Hand Held Grinders (7" Angle)	37 49.6 0.00
Hand Truck 2 Wheel	41 21.95 0.00
Hand Truck 4 Wheel	41 44.9 0.00
Hijack Lifts	0.00
Hole Saw Kits (3/4 - 4 1/2)	0.00
Hoses 1/2 - 5/8	2 21.68 0.00
Ladder 10'	18 40.25 0.00
Ladder 12'	18 44 0.00
Ladder 32' Extension	17 67.2 0.00
Ladder 6'	18 17.6 0.00
Ladder 8'	18 25.18 0.00
Laser Level {Pipe & Sewer)	18 504.1 0.00
Nylon Slings 3" x 10'	16 8.5 0.00
Pallet Jack	24 221.6 0.00
Pipe & Conduit Cutter	7 36.3 0.00
Pipe Carts	0.00

Sussex-McDaniel P&H			Page No. 79
Pipe Stands	26	9.65	0.00
Pipe Threader (Rigid 300 + Threader)	26	239.65	0.00
Pipe Threaders (Collins 22A)	26	350	0.00
Portable Flood Lights	21	75	0.00
Conduit Bender Hydraulic to 5"	3	598.38	0.00
Propane Heaters	14	79.2	0.00
Propane Torch	28	55.8	0.00
Pump Electrically Operated Test	30	57.4	0.00
Radios 2 Way	50	10	0.00
Right Angle Drill 1/2"	8	114.4	0.00
Rigid 600 Power Drive	26	132	0.00
Rigid Stock 1-2"			0.00
Oxy Acetylene Protective Gear Hood/Gloves	47	19.25	0.00
Roust-A-Bout Material Lift 20'	24	635.25	0.00
Saw Hand Heels 4 3/4"	33	89.95	0.00
Saw 16" Abrasive	32	97.3	0.00
Sawsall - 2 Speed	34	25	0.00
Scaffolding Sections Complete	34	106.25	0.00
Soil Pipe Cutter	7	79.25	0.00
Soldering Irons	28	21	0.00
Tarpaulin	50	6	0.00
Test Balls 2" and 3"	28	4.3	0.00
Test Balls 4"	28	5.35	0.00
Test Balls 5"	28	38.6	0.00
Test Balls 6"	28	50.9	0.00
Up to 2" Hydraulic Punch	31	22.85	0.00
Victaulic Grooving Machine	27	398.2	0.00
Welder Electric 500 Amp	48	375.4	0.00
Wet Dry Vac	37	44.6	0.00
Wrench 12"	39	1.05	0.00
Wrench 14"	39	1.05	0.00
Wrench 18"	39	2.1	0.00
Wrench 24"	39	3.15	0.00
Wrench 36"	39	5.3	0.00
Genie Lift (Rental)	24	366.45	0.00
Hilti Gun	12	123.75	0.00
Self Propelled Aerial Lifts 20-30	19	1185	0.00
			66.64

United Rental Backhoe Expense	Date	Amount
	2/14/2003	1843.37

1/18/2003	2505.5
3/23/2003	2202.69
4/20/2003	1973.37
4/20/2003	2072.69
5/18/2003	1843.37
6/16/2003	2072.69
6/16/2003	1843.37
6/19/2003	1973.37
7/13/2003	1843.37
7/24/2003	2072.69
8/1/2003	1231.85
Subtotal	23478.33
Estimated - 2 Months, 1 backhoe	3916.06
Net Overrun	19562

McDaniel Plumbing & Heating - Sussex Central High School

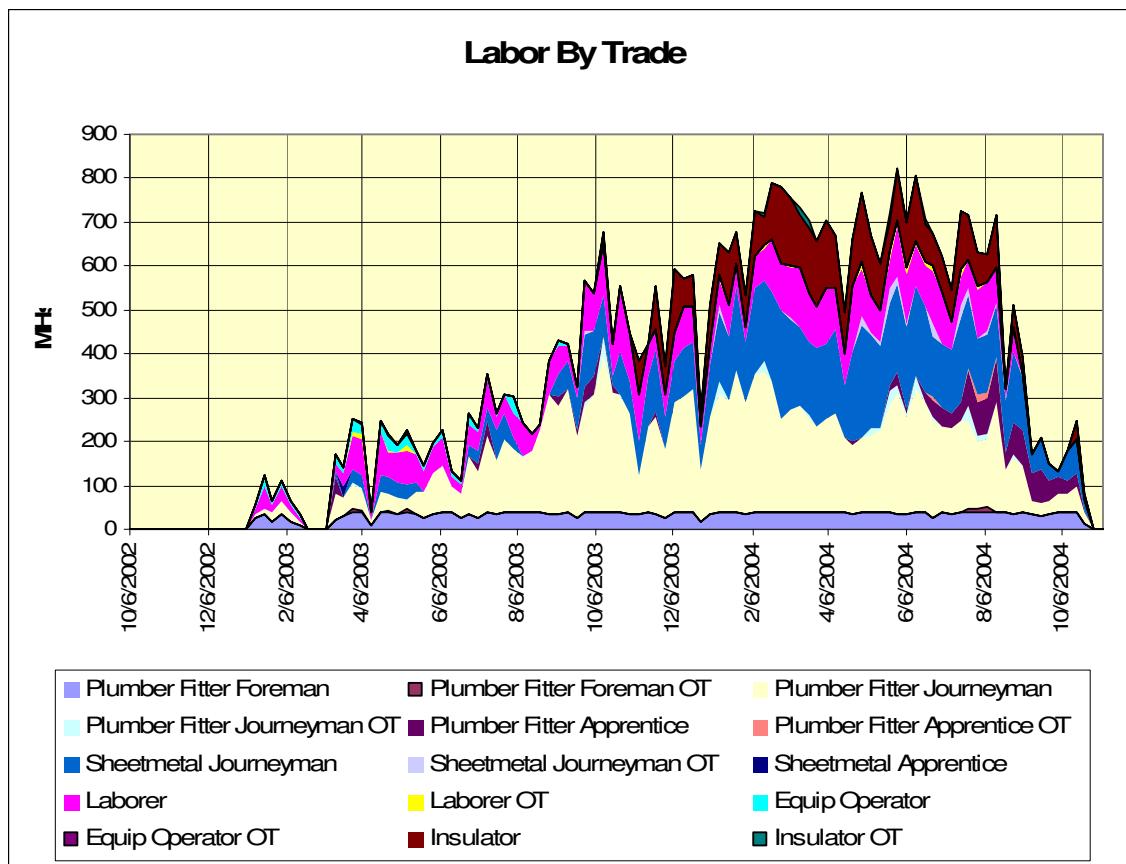
Labor Loss of Efficiency

	Fitters	Tin Knockers	Laborers	Operators	Insulator	Travel	Super- vision	Clean-up
Bid Hours	19989	6000	840	3000	100	160	160	
Bid Rate	32.20	28.37	17	23.28	25	38	28	
Bid Cost	643651	170220	14280	69840	2500	6080	4480	
Average Rate								
Shop labor noted in MPH								
Memo 7/30/07								
Actual Incurred Cost Per								
MP&H								
Sub Total Actual Labor Per								
MP&H (R11+R12)								
Labor Overrun Sub Total								
R13-R9								
\$ Labor Claimed Under Site								
Office								
\$ Labor Claimed in Change Orders (169 Hrs @ \$40								
Per Hr)								
Net Labor Overrun								
Labor Loss of Efficiency	Valve	Testing	Pipe ID	Set	Kitchen	Fixture	Under-	

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	Charts & Tags		Equip		ground	
Bid Hours	80	1500	140	2150	648	30249
Bid Rate	35	23	35	34	32	
		3450				
Bid Cost	2800	0	4900	73100	20736	911051
Average Rate						30.12
Shop labor noted in MPH						
Memo 7/30/07						114292
Actual Incurred Cost Per						135837
MP&H						2
Sub Total Actual Labor Per						147266
MP&H (R11+R12)						4
Labor Overrun Sub Total						
R13-R9						561612
\$ Labor Claimed Under Site						
Office						-123885
\$ Labor Claimed in Change						
Orders (169 Hrs @ \$40 Per						
Hr)						-6760
Net Labor Overrun						430968



McDaniel Plumbing & Heating - Sussex Central High School

Damages Recap

Home Office Administrative Expense	96963
Site Office Administrative Expense	99140
Wage Rate Increases Pipe Fitting	
Material Cost Escalation	
Labor Loss of Productivity	430968
Constructive Change Orders	
Sub Total	627071
Overhead @ 10%	53011
Sub Total	680082
Profit @ 10%	68008
Sub Total	748090
Bond @ 1%	7481

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TOTAL

755571

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